

**GOVERNORS'  
CONFERENCE  
PROCEEDINGS**

**==1912==**

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PROCEEDINGS

OF THE

FIFTH

MEETING OF THE GOVERNORS

OF THE

STATES OF THE UNION

HELD AT

RICHMOND, VIRGINIA

DECEMBER 3-7, 1912



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Gift. Conference

# ORGANIZATION

DECEMBER 1912 TO SEPTEMBER 1913

## *Executive Committee*

GOVERNOR FRANCIS E. MCGOVERN, Wisconsin

GOVERNOR EMMET O'NEAL, Alabama

GOVERNOR ELIAS M. AMMONS, Colorado

## Treasurer

EX-GOVERNOR JOHN FRANKLIN FORT

Essex Building, Newark, New Jersey

## Secretary

MILES C. RILEY

State Capitol, Madison, Wisconsin



# GOVERNORS, EX-GOVERNORS AND GOVERNORS ELECT ATTENDING CONFERENCE

RICHMOND, VIRGINIA

DECEMBER 3-7, 1912.

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Governor Emmet O'Neal of Alabama  
Governor George W. Donaghey of Arkansas  
Governor John F. Shafroth of Colorado  
Governor Simeon E. Baldwin of Connecticut  
Governor Albert W. Gilchrist of Florida  
Governor Joseph M. Brown of Georgia  
Governor James H. Hawley of Idaho  
Governor Frederick W. Plaisted of Maine  
Governor Phillips L. Goldsborough of Maryland  
Governor Eugene N. Foss of Massachusetts  
Governor Adolph O. Eberhart of Minnesota  
Governor Herbert S. Hadley of Missouri  
Governor Edwin L. Norris of Montana  
Governor Tasker L. Oddie of Nevada  
Governor John A. Dix of New York  
Governor W. W. Kitchin of North Carolina  
Governor Judson Harmon of Ohio  
Governor John K. Tener of Pennsylvania  
Governor Cole L. Blease of South Carolina  
Governor Robert S. Vessey of South Dakota  
Governor William Spry of Utah  
Governor William Hodges Mann of Virginia  
Governor Francis E. McGovern of Wisconsin  
Governor Joseph M. Carey of Wyoming  
Ex-Governor Augustus E. Willson of Kentucky  
Ex-Governor John Franklin Fort of New Jersey  
Governor-Elect Park Trammell of Florida





# GOVERNORS' CONFERENCE

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## ARTICLES OF ORGANIZATION

### ARTICLE I.

The style of this organization shall be the "Governors' Conference."

### ARTICLE II.

Active membership in the Governors' Conference shall be restricted to the Governors of the several states and territories of the United States, the term "Governors" to include Governors-Elect. Ex-Governors shall be received as honorary members and, as such, shall be entitled to all the rights and privileges of active membership except the right of voting.

### ARTICLE III.

The functions of the Governors' Conference shall be to meet yearly for an exchange of views and experience on subjects of general importance to the people of the several states, the promotion of greater uniformity in state legislation and the attainment of greater efficiency in state administration.

### ARTICLE IV.

The Conference shall meet annually at a time and place selected by the members at the preceding annual meeting.

### ARTICLE V.

The Conference shall have no permanent president.

A Governor shall be selected by the Executive Committee at the close of each half day's session to preside at the succeeding meeting.

### ARTICLE VI.

There shall be no permanent rules for the government of the Conference in discussion or debate, but the procedure at any session shall be subject to the pleasure of the Governors present.

## ARTICLE VII.

The proceedings of the Conference shall be fully reported and published.

## ARTICLE VIII.

The affairs of the Conference shall be managed by an Executive Committee composed of three members to be chosen by the Conference at the regular annual meeting. They shall hold office until the close of the succeeding regular annual meeting and until their successors are chosen. Vacancies in the Executive Committee may be filled by the remaining members thereof.

## ARTICLE IX.

There shall be a permanent secretary-treasurer engaged by the Conference at a salary not to exceed twenty-five hundred dollars per annum, who shall be under the direction and supervision of the Executive Committee and who shall hold such position during the pleasure of the Conference. The secretary-treasurer shall be reimbursed his actual and necessary expenses incurred while traveling on the business of the Conference and shall furnish a bond with sufficient sureties conditioned for the faithful performance of his duties. This bond must first be approved by the Executive Committee as to form and the sufficiency of the sureties.

## ARTICLE X.

The secretary-treasurer shall attend all meetings of the Conference, keep a correct record thereof, safely keep and account for all moneys, funds, documents, papers and other property of the Conference which shall come into his hands and render a full account thereof to the Conference at the regular annual meeting. He shall deposit all funds of the Conference in its name and shall exhibit his books and accounts to any member of the Conference upon application; he shall disburse the funds of the Conference as directed by it or by the Executive Committee, taking proper vouchers therefor, and shall perform all other duties usually appertaining to his office or as may be required by the Executive Committee.

The secretary-treasurer, under the direction and supervision of the Executive Committee, shall annually prepare a budget of the expenses of the Conference for the ensuing year and apportion the total amount thereof among the states and territories and communicate the budget and apportionment to the Governors of the states and territories. Under the direction of the Executive Committee he shall make all necessary arrangements for a program for the regular annual meeting, and shall edit or aid any committee appointed to edit the stenographic reports of the proceedings of such meetings, publish and distribute the same, and shall perform such other duties as may be required by the Conference or the Executive Committee. He shall, also, so far as possible, cooperate and keep in touch with organizations, societies and other agencies designed to promote the uniformity and efficiency of legislation.

#### ARTICLE XI.

Persons not members of the Conference shall not be heard until the regular order of business for the day has been concluded, and then only by unanimous consent. All programs for social entertainment must be approved in advance by the Executive Committee.

#### ARTICLE XII.

These articles or any of them may be altered, amended, added to or repealed at any time by a majority vote of all Governors present and voting at any regular annual meeting of the Conference.



# MEETING OF GOVERNORS

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## FIRST SESSION

TUESDAY, DECEMBER 3RD, 1912.

The fifth Conference of Governors was called to order at the Jefferson Hotel, Richmond, Va., at 10 o'clock A. M., by Governor McGovern of Wisconsin, Chairman of the Executive Committee.

GOVERNOR MCGOVERN—I take very great pleasure in calling the Governors' Conference to order and, on behalf of the Executive Committee, of nominating as your chairman for this morning's session Governor Harmon, of Ohio. It is understood, of course, that the Conference has no permanent officer and no permanent organization. All in favor of the election of Governor Harmon as temporary chairman will say aye; opposed, no. Governor Harmon is unanimously elected temporary chairman and will please come to the chair.

Governor Harmon assumed the chair.

GOVERNOR HARMON—The Conference will please come to order.

Before proceeding to business, allow me to express my great appreciation of the honor of presiding at the opening meeting of this Conference. To those of us who have attended the previous Conferences an additional and especial pleasure comes from the renewal of acquaintanceships. I always have thought that one of the great advantages of the Governor's Conference lies in the fact that the chief executives of the different States get closer to each other and become real personages to each other when we have official business, and I assure you that one of the great pleasures I have in coming to these conferences is to meet those whom I have long ago put on my list of friends. We will now proceed with the regular order, and the first thing is to hear from our worthy and distinguished host, Governor William Hodges Mann, of Virginia.

## ADDRESS OF WELCOME TO VIRGINIA.

GOVERNOR MANN (of Virginia)—Mr. Chairman and Gentlemen of the Conference:

I beg to assure you that it is with very great pleasure that I have the honor of making the welcoming address on this occasion. It is at once a pleasure and an honor to have the representatives of so many of the sovereign States of this country to assemble in the capital city of the old Commonwealth, so rich in history and tradition.

I shall not, however, burden you with the history of the State and city you visit. That history belongs to the nation. Yet, if I may say it, this Commonwealth has made history and her sons have distinguished themselves in many deeds which have added to civilization wherever civilization exists. While we claim for our distinguished sons the motherhood of Virginia, we rejoice that they were and are American citizens and that every one of you have a part and lot in all the works they have accomplished. In the same sense, while you come to the Commonwealth of Virginia by virtue of an urgent invitation and while I stand here to give you the heartiest welcome it is possible to extend, you are welcome on your own account, because Virginia is one of the sovereign States of the Union, and every American citizen, from whatever State he comes, has a right to share in her splendid traditions and the glorious deeds which her sons have wrought.

I wish to congratulate the United States on the meeting of this Conference, because I know of no body so potential for good as this Conference. I can judge by the effect upon myself. I know that I have a kindlier feeling to the people of every section than I had before I was so fortunate as to attend the meetings of this Conference. I know that when any problem presents itself for me to solve that I have reason to believe has been solved in other States, I sit down and write to the Governor of that State, not as a stranger, but as a friend, and in every instance find that he replies in the same spirit and often puts himself to a great deal of trouble to give the information desired.

While this Conference does not come to any conclusion, as a conference, on the matters discussed, yet every member reaches

his own conclusion, and the ultimate impulse of the members is to make uniform and harmonious the laws of this great country of ours, composed as it is of forty-eight sovereign States.

There are many questions with which we have to deal which are made more difficult by the absence of uniform legislation throughout the States. If, for example, we could possibly bring about uniform laws in respect to marriage and divorce we would have accomplished a great work, not only for this country, but for civilization and for the very foundation of society. There ought to be no difficulty in passing uniform laws in regard to marriage, but we may not be so fortunate in reference to divorce. But so far as I am concerned—and I take this opportunity of expressing myself on this subject—I am for the narrowest limitation that can be imposed within the bounds of reason. I hold that the marital ties are at the very basis of society, and that we must maintain them if we are to be a great and righteous people. In reference to contracts we could all agree as to how contracts should be executed; we might agree upon the construction of those contracts. We could have uniform laws with reference to wills, so that wherever a man might be he would know he could lawfully execute his will in the same manner as if he were at home. Surely it ought not to be difficult to establish uniformity about these matters.

There are certain questions before this session of the Conference which we will have to discuss and upon which each of us should and I trust will arrive at wise conclusions. The manner in which we deal with our convicts is one of these and a very important one. I must recognize the obligation I owe to some of the States of this Union for suggestions that have been extremely valuable to me. I have tried to put into operation in Virginia the plan now in operation in the States of Colorado and Oregon, but the Legislature of Virginia thought I was rather too progressive to be followed. I don't despair, however, because this is an age of progress and it seems that the progressive movement is growing.

At this time, I wish to congratulate this assemblage upon this fact, that governors may be presidents of the United States. I undertake to say that there is not a man in this assemblage who is not willing to be selected for that position and to sacrifice his

own personal interests for the welfare of the people; indeed, if statements of candidates are to be taken, no man was ever a candidate for president who was not an unwilling one, and who did not sacrifice his own personal interests in order that he might serve the people. May I say frankly, we are all willing for lightning to strike in our direction.

I was up in Massachusetts and Connecticut and New York during the last canvass and was very much delighted with the reception which the people were kind enough to give me—delighted to meet the good people of those good States. Indeed, it is my deliberate conviction that if we had known each other throughout the different sections of our country as well in 1861 as we do now, the war of 1861-1865 would have been impossible.

Precious blood was shed that we might understand one another. Much of it was shed on the soil of this old Commonwealth. Within twenty-five miles of where we sit are the graves of over fifty-five thousand Confederate soldiers and I know not how many thousand Federal soldiers. Yet that blood was not shed in vain! Whatever may be the price we have paid; whatever may have been the misfortunes and the sorrows which attended that great struggle, it has been demonstrated that the people of this great country, North and South, have established a new record for manhood—not Southern manhood, not Northern manhood, not even American manhood, but manhood wherever man exists and wherever strength and courage and patriotism are valued. That same spirit, I am sure, controls this Conference today. Coming in that spirit, you are thrice welcome.

GOVERNOR HARMON—We are very glad to be officially welcomed thus by the old Commonwealth of Virginia, and I take it that these Governors' Conferences have developed a new theory of law, or rather a new application of an old theory, and that is whenever a Governor of a State is visiting another State he invokes the doctrine of ex-territorial jurisdiction between the States; that principle by which should the ambassador of one country go to another, or the war vessels or other representative of one country go to another, they are presumed not to come within the laws of the other country, but to bear with them the laws of their own sovereignty, and I take it that we may assume



hereafter that when we go into another State we carry our own laws with us. I don't know that there is much advantage in this, because in all questions relating to morals and conduct I think our laws are substantially alike; but it is a rather pleasant thought to apply that doctrine to the sovereignty of our several States, but that does not go quite far enough, for we not only come to Virginia, the Commonwealth, but we come to Richmond, the municipality, which is her capital, and I am not sure that Governor Mann has the right to regulate Mayors, as we have in Ohio and one or two other States, and it is a pleasant thought to some of these younger Governors to know that the Mayor of the city recognizes this doctrine and receives us as guests and will make certain allowances for our coming from other States; so we are very grateful to know that we are also to be welcomed by his Honor, George Ainslie, Mayor of Richmond, whom I now present.

#### ADDRESS OF WELCOME TO RICHMOND.

MAYOR AINSLIE (of Richmond)—Mr. Chairman, Ladies and Gentlemen:

I am very proud of the privilege of adding to the welcome extended to you by Governor Mann, on the part of the State of Virginia, the cordial welcome of the City of Richmond, whose citizens, for whom I speak, feel so highly honored by the presence here of the distinguished Chief Executives of so many of our sister States. We feel especially honored by the gracious presence of the first ladies of so many States, whom many consider the real governors of their respective commonwealths. In those States here represented in which they are not so, the male Governors may rise and stand until they are counted. None rises. I congratulate the people of your several States upon what I am sure must be the best of government. So to both the real and nominal Governors, I express a warm and cordial welcome from the people of Richmond, and I beg to assure you that our further happiness during this Conference will be found in the efforts we shall put forth to make your visit here pleasant and agreeable, and your departure a mutual regret.

CHAIRMAN HARMON—The committee made a very wise selection of a gentleman to respond on behalf of us all, and I take great pleasure in presenting now Governor Edwin L. Norris, of Montana, who, on behalf of the visiting Governors, will respond to these addresses of welcome.

#### RESPONSE TO ADDRESSES OF WELCOME.

GOVERNOR EDWIN L. NORRIS (of Montana)—Mr. Chairman and Governors:

It is indeed a pleasure to receive so cordial a welcome to the Old Dominion, and it is an honor to have it extended by so distinguished a Mann.

It is good to be here, where through the centuries that have elapsed since Columbus discovered us two of the most notable industries of this splendid old commonwealth have been the conserving of life and the growing of Presidents. It seems especially fitting that a Conference of Governors that must discuss the pressing problem of conservation should be held in the home of that first American conservationist, Pocahontas; fitting, too, because of the fact that from the days of Washington to those of Wilson, Virginia has practiced conservation so wisely and so assiduously that her supply of Presidential timber seems utterly impossible of exhaustion.

These Conferences of the Governors are pleasant reunions and valuable mediums for the exchange of ideas between those who direct the affairs of sovereign States. Of those who are now members, only three attended the first Conference at the White House in 1908. The other Governors then present have either retired, been retired, passed to their final reward, or gone to the Senate. As to the preference among these methods no opinion is expressed. The patriarchs of the Conference—Burke, Deneen and I—will have no part in the future deliberations of the Executives. To voice a patent truth, there seems to be a decidedly high rate of official—not “mortality”; but let us say “subsidence,” in the fraternity of Governors.

The rapid change in the membership of the Conference renders necessary a different system of organization than has heretofore been maintained. We have met, discussed problems of

grave concern to the States, and returned to our respective homes. Much of actual value has been accomplished, but the Conferences have not been the potent factor they might have been. We have received information that has been extremely valuable to us in the discharge of our official duties, but public opinion has not been influenced. No definite position has been taken upon any question, no consensus of opinion has been expressed, and no fixed purpose has been accomplished.

These Conferences may be the medium through which many public policies may be formulated and advanced for popular approval. Unusual care has been exercised in avoiding any appearance of trespassing upon the prerogatives of Congress. There seems to be no reason for this timidity on the part of the Governors. All national questions and policies are intimately related to the States. The Governor is the one official who represents and is in closest touch with all the people of his State, and he may with all propriety speak upon any question that touches their interest.

The suggestions of William George Jordan, for the organization of a House of Governors, may have been somewhat visionary, but they contained more of merit than the plan that has been followed. I am an earnest advocate of an organization permanent in character, with a permanent secretary who shall devote his whole time to the work of the Conference. Except as to unimportant details, the plan of organization outlined by Mr. Miles C. Riley of the Wisconsin Legislative Reference Library is in my judgment worthy of approval and should be adopted at this meeting. The advisability of taking a definite stand upon the questions discussed and the making of specific recommendations by the Conference is suggested. In no other way, in my opinion, may this body attain the rank as a vital force in moulding public opinion and shaping public policies to which it is entitled by reason of the ability, prominence and influence of its members.

Under our present system the Conferences seem to impress the public more as social than as business gatherings. Those who have attended the past meetings know this deduction to be erroneous. A vigorous expression of the consensus of opinion upon the subjects discussed and considered would counteract this error

and inject into the Conference a potency and virility not otherwise possible.

Referring again to a more pleasing subject—Virginia—the common sentiment of the guests assembled is expressed that the selection of Richmond as a meeting place this year was in all respects a happy one. Here on the classic banks of the James, within the borders of an historic city, nigh unto the site of the first settlement of Anglo-Saxons in America, in the heart of a land vastly rich in tradition, there is every opportunity and fullest inspiration for calm and helpful deliberation. Under these influences the Governors who are here must be imbued with a desire to work out the problems that deeply concern the people they represent and that will affect the future of the nation.

The forebears of many of the Governors were Virginians, and to them this visit will partake somewhat of the nature of a homecoming. To all of us it will be a pilgrimage to shrines sacred to all admirers of ability, valor and patriotism. From the first President to the President-elect, from Governor Henry to Governor Mann, Virginians have been prominent factors in the building of this great nation. Her sons and daughters were pioneers in Kentucky and Tennessee and Ohio, and their descendants are taking active part in the life of Montana and Washington and Arizona.

To Virginia, where Washington fought to found a free government, where Henry fired the hearts of a liberty-loving people, where Jefferson declared for the rights of man, where Lee led the chivalry of the South in the "lost cause," and where the genius of philosophers, jurists, sages, statesmen and soldiers has adorned American history, we offer our tribute, pay our homage, and accept her generous hospitality in the spirit in which it is extended.

CHAIRMAN HARMON—The next order of business is the appointment of a temporary chairman; I suppose that was taken up out of order. The next order will be the appointment of a Committee on Organization.

GOVERNOR NORRIS—Mr. Chairman, in conformity with the custom that has obtained at all previous Conferences, I move that the chair appoint a committee of three on arrangements, whose

duty will be to arrange for the various meetings during this Conference. The motion was duly seconded.

CHAIRMAN HARMON—The motion is for the appointment of a committee of three on arrangements. Those in favor of the motion will signify it by saying aye; opposed, no. The motion is carried.

CHAIRMAN HARMON—I will appoint on that committee, Governor Norris, of Montana, Governor Kitchin, of North Carolina, and Governor Carey, of Wyoming.

The next order of business is the roll-call. The Secretary will call the roll.

The Secretary, M. C. Riley, called the roll, to which the following named Governors, Ex-Governors, and Governors-Elect responded:

Governor Emmet O'Neal, of Alabama  
Governor George W. Donaghey, of Arkansas  
Governor John F. Shafroth, of Colorado  
Governor Simeon E. Baldwin, of Connecticut  
Governor Albert W. Gilchrist, of Florida  
Governor Joseph M. Brown, of Georgia  
Governor James H. Hawley, of Idaho  
Governor Frederick W. Plaisted, of Maine  
Governor Phillips L. Goldsborough, of Maryland  
Governor Eugene N. Foss, of Massachusetts  
Governor Adolph O. Eberhart, of Minnesota  
Governor Herbert S. Hadley, of Missouri  
Governor Edwin L. Norris, of Montana  
Governor Tasker L. Oddie, of Nevada  
Governor John A. Dix, of New York  
Governor W. W. Kitchin, of North Carolina  
Governor Judson Harmon, of Ohio  
Governor John K. Tener, of Pennsylvania  
Governor Cole L. Blease, of South Carolina  
Governor Robert S. Vessey, of South Dakota  
Governor William Spry, of Utah  
Governor William Hodges Mann, of Virginia  
Governor Francis E. McGovern, of Wisconsin  
Governor Joseph M. Carey, of Wyoming

Ex-Governor Augustus E. Willson, of Kentucky

Ex-Governor John Franklin Fort, of New Jersey.

Governor-Elect Park Trammell, of Florida

GOVERNOR MCGOVERN—It is suggested on behalf of the Executive Committee that Governor Carey act as temporary chairman this afternoon, and I make a motion to that effect. The motion was duly seconded.

CHAIRMAN—It is moved and seconded that Governor Carey act as temporary chairman this afternoon. Those in favor of the motion will signify by saying aye; those opposed, no. Governor Carey is unanimously elected temporary chairman for this afternoon's meeting.

GOVERNOR SHAFROTH—Mr. Chairman, I received a telegram, before leaving Denver, from Miss Anna Shaw, asking that she be given a few minutes to discuss the question, "Equal Suffrage," before this Conference, and I move that the time of twenty minutes be allotted for the purpose of discussion on this subject by such persons as the local committee may deem proper to present to the Conference. I think we had better put the time at day after tomorrow. I understand we go to Norfolk tomorrow, and consequently at the beginning of the afternoon session of day after tomorrow would be a convenient time, as Miss Shaw would have to come here from New York. I move that twenty minutes be given to any party that the local committee may desire for Thursday at the beginning of the afternoon session.

GOVERNOR O'NEAL—I move as a substitute that the whole matter be referred to the Committee on Arrangements.

My reason for offering this substitute is that I don't think we ought to set a precedent by which every party who wishes to present certain views on certain subjects be accorded the time to discuss them—I think our whole programme would be interfered with. I don't mean by this motion to object to according the time to parties to discuss such questions, but I think it should be left to the Committee on Arrangements to fix the time so it will not interfere with our programme.

GOVERNOR SHAFROTH—I suggest that the time be fixed at the close of the programme on Thursday, so that it cannot interfere with the regular programme.

CHAIRMAN HARMON—If there is no objection as to formality, Governor Shafroth's motion may be considered to be amended so that the time of twenty minutes be given at the end of Thursday afternoon's session. The question now is to refer this matter to the Committee on Arrangements. I will call for a rising vote on this question. Those in favor of the substitute motion will kindly rise. There are 8 in favor of the substitute. Those opposed to the substitute will please rise. There are 8 opposed to the substitute. I will decide in favor of the substitute and declare the substitute motion carried, and the Committee on Arrangements will have charge of the motion accordingly.

A motion to adjourn was duly made, seconded and carried and an adjournment was taken until 2:30 in the afternoon.

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## AFTERNOON SESSION

The Conference met at 2:30 P. M. pursuant to adjournment at the morning session.

Governor Carey in the chair, called the meeting to order.

CHAIRMAN CAREY—The first thing in order will be the report of the Committee on the Order of Business.

GOVERNOR NORRIS—Mr. Chairman, the Committee on Arrangements approves the programme as outlined except as to the matter of time. A number of the Governors find it impossible to remain here longer than Friday noon and possibly the most important subject on the programme has been assigned for Friday evening. The Committee on Arrangements therefore think it advisable to set the programme forward, and for this afternoon we have selected Governor Carey as temporary chairman (who is now in the chair). The Committee suggests as the topics this afternoon, "Modern Penology," with addresses by Gov. John F. Shafroth, of Colorado, and Gov. Simeon E. Baldwin, of Connecticut, on this subject; and in addition the subject assigned for Friday morning, that is "Uniformity of Marriage and Divorce Laws," on which subject Governor Tasker L. Oddie, of Nevada, and Gov. James H. Hawley, of Idaho, will address the Conference. Those two subjects will be disposed of this after-

noon. For tomorrow evening Governor Gilchrist is recommended for temporary chairman, and the subjects as mentioned in the programme, that being the business session of the Conference. For Thursday morning Governor Dix is recommended for chairman. The subjects to be discussed on Thursday morning are "A State Income Tax," with addresses by Gov. Francis E. McGovern, of Wisconsin, and by Ex-Gov. Augustus E. Willson, of Kentucky, and "The Development of Inland Waterways," with addresses by Gov. Eugene N. Foss of Massachusetts and Gov. Charles S. Deneen of Illinois. For Thursday afternoon the subject of discussion will be "What the State Can Do to Check the Drift of Population from Farms to Cities," with addresses by Gov. Adolph O. Eberhart, of Minnesota, and Gov. Herbert S. Hadley, of Missouri. The Committee also recommends that twenty minutes be allowed at the end of Thursday afternoon's session to the local committee for the discussion of the subject "Equal Suffrage" and such other matters as the local committee may put forward. That disposes of the programme except for Friday. The subject, "Rural Credit," which had been put on the programme for Friday evening is set forward to Friday morning, with addresses by Gov. Emmet O'Neal, of Alabama, and Gov. John Burke, of North Dakota. A letter from the President of the United States on this subject will be read at this session. The reason I state that the subject "Rural Credit" is probably the most important on the programme is because the President has given this the most attention and is asking the Governors to come to Washington and discuss this matter with him personally. The hours for meeting are recommended as 10 o'clock in the morning, 2 in the afternoon, and 8 in the evening, and we further recommend that the Governors accept the invitation to visit Norfolk tomorrow morning, returning in time for the evening session. These are the recommendations made by the Committee on Arrangements at present. The reason, as before stated, for setting this programme forward was that some of the Governors must leave here Friday afternoon.

GOVERNOR MCGOVERN—Mr. Chairman, I move that the programme outlined by the Committee on Order of Business be accepted and approved. The motion was duly seconded.



CHAIRMAN CAREY—It has been duly moved and seconded that the recommendations submitted by the Committee on Order of Business be adopted. All in favor of that motion will signify it by saying aye; opposed, no. There being no objection it is so ordered.

CHAIRMAN CAREY—The first order of business this afternoon is the discussion of the subject "Modern Penology." We are very fortunate in having Governor Shafroth present, as he has worked out the problem to some extent in Colorado, and other Western States have followed.

### "MODERN PENOLOGY."

GOVERNOR JOHN F. SHAFROTH OF COLORADO.

Mr. Chairman, Ladies and Gentlemen: I must apologize to you for not having a written speech, because I did not expect to attend this Conference, and it was only on the last day that I concluded I would come, and then I was unfortunate enough not to get my wife to come with me; but I don't know whether, if I had had a great deal of time, I would have written a speech, because it is laborious; and a Governor has not a great deal of time to attend to matters of that character. In fact, every time I start to write a speech, after I write the first line, it does not suit me, and I consign it to the waste basket. And that reminds me of a story that is told of a young minister who came to a new congregation. He was very anxious to please the congregation and he prepared an elaborate sermon and read it, and after having read it he thought he would sound his audience. So he went down the aisle of the church and met a sister, an elderly lady. He said to her, "I am very anxious to please the congregation, and I want you to criticise my sermon. I want you to tell me frankly what you thought of it." She put a good deal of contempt into her voice and said, "You read it!" He said, "I did not have time to commit it to memory, but can avoid that in future," and he continued, "What else would you suggest?" After hesitating, she answered, "You did not read it well." He said, "That is quite likely; because I hurriedly prepared the sermon. But," said he, "Sister, what was there in

the substance of the sermon you should criticise? I am very anxious to please my congregation, and I want to make my sermons good in the future." After hesitating for some length of time, she said, "Well, it was not worth reading." Now, my friends, I often feel that way after I have started to write a speech, because usually in the enthusiasm of writing we think the subject matter is much better than we find it to be after reading it over.

I want to say in relation to the subject we have here—of course, we are all interested in this subject—the question of how to treat the criminals of our States has brought as much trouble and anxiety to Executives as any subject with which we have to deal.

There are two schools of philosophy in this line of thought. As in many other lines, they are divided into two classes. The first class says there should be severe punishment for example's sake; that the only way you can restrain crime is to make the punishment severe, if not you will have crime and anarchy rampant in the land. But when you go into the history of this matter of the treatment of criminals, you will find that there are very serious objections to it. You know that 200 years ago in England there were more than one hundred crimes punished by capital punishment, and yet we know it did not deter crime; it did not produce the desired effect upon the very persons who believed in that method of treatment. Coming to these later days we find that certainty of punishment produces that effect. I regard certainty of punishment as better than the severity of punishment. I believe that when the punishment is too severe you cannot get convictions—juries will turn loose criminals if they consider the punishment too severe, and thus a great many escape any punishment whatever. We find under that old theory of excessive punishment that there was torture, the dungeon, feeding upon bread and water and various forms of punishment of that kind, and yet we know that we have better conditions today than they did under that system. It did not lessen crime then. We know that is not the way to handle this question. In other words, the condition of society which we all desire, that is, that there should be less crime committed, cannot be obtained by severity of punishment. Severity of punishment furnishes an

example, and that example is a deterrent to some people; but with the great mass of the people it does not act as an efficient preventive.

It seems to me, this philosophy of the first school is not well founded; excessive punishment will not bring about the desired results.

There is another class of people who contend that there should be no severe punishment—no capital punishment at all, no long sentences—a pardoning power which will relieve very largely the criminals who are found guilty of offense; and they take the position that there should be a great number of pardons, a great number of commutations of sentences. Many excellent men favor this, and yet there is a defect in this system. Unless you have a severity of punishment that is sufficient to make the criminal feel the force of the law, you will not have enforcement of the law. Some citizens say, “Grant pardons liberally”; other people, who are equally as good citizens, say, “You might as well abolish the courts. What is the use of putting the State to the expense of trying and convicting the criminals if you are going to turn around and grant them pardons.” They believe in the example; they believe in the fear which the law instills in the minds of men when they know that the punishment will be inflicted. And yet it seems to me that between these two classes—the one that believes in the severity of punishment and that class of people who believe in frequent pardons, and in a great many instances wholesale pardons—there is a line of treatment which is the proper treatment of criminals. We have tried to adopt that policy in our State and have at least produced a great and a radical change in the treatment of our criminals—in the reformation of them; and we believe that the fact that fewer individuals have committed crimes in our State since its adoption is proof of the good of the system.

I believe that we cannot abolish the example of punishment, but we can abolish the excessive severity of punishment. It should be understood that whenever a crime is committed, there will be a certainty of punishment. It is the certainty that there will be punishment which stops crime more than anything else. I do not believe in protracted punishment. I believe that if you instill in the minds of the citizens of the State the feeling that

there surely will be punishment, we will have fewer crimes. We have attempted to solve that problem in our State by adopting the system of letting a prisoner earn his own liberty. We have the system of indeterminate sentence. There is a minimum and maximum sentence prescribed. For instance, a man may be sentenced to prison for from ten to twenty years for an offense. If his conduct is good, he can get out at the end of ten years and be paroled until the end of twenty years. If he commits a crime while on parole he is put back to serve out the rest of the indeterminate sentence. If his conduct, while confined, is perfect, there is taken off for the first year, one month; for the second year, two months; for the third year, three months; for the fourth year, four months; for the fifth year, five months; for the sixth year, six months; and succeeding that, six months off of each year thereafter. If he obeys all the rules, then the foregoing is the privilege which he has under the indeterminate sentence. We had that policy in Colorado for a number of years, and then following that we concluded we would have another. This one was to give to each trusty—that is a man recognized by the warden as capable of being trusted, one who has good conduct to his credit in the prison—leave to go out of the prison walls and work upon the farms and highways of the State, and for that work he is allowed additional diminution of time equivalent to one-third of the period he works on the farm or highways. Altogether, by doing the very best he can, a man with an indeterminate sentence of ten to twenty years may earn his own release on parole within four years and three months. That last law has produced a great revolution in my State so far as the treatment of prisoners is concerned. We have men working all over the State, in gangs of fifty or sixty, who are not guarded, who have no person to see that they do not leave, except two officers who direct the work, and they are unarmed. They can leave if they want to, without interference, and yet we have found that during the four years that we have had this law we have not had a general break. Here and there a man will drop out, with the hope that he may escape; but the result, as far as I can recall from the warden's report, is that there has been a net loss of not to exceed four in two years. The reason is, the prisoner is given an incentive to earn his own liberty, and be-

cause of that fact we have fewer pardons. I have pardoned but one person during my term.

Where a prisoner claims to be innocent, his petition for a pardon is always considered, but unless the sentence is a very severe one, if the party has been proven guilty, the petition does not come before the Board of Pardons. Now, I believe pardons unnecessary when you have a law whereby you give a prisoner liberty for his own work, and I think it has a tendency to create a distrust in the minds of the people if the pardoning power is used too freely; it is continually said that men of influence can get an appeal and get pardons, and the result is the people have less confidence in the board that pardoned them.

The law obtaining in this connection that was passed is very simple—not over a dozen lines. It provides that any person on the trusty list of the penitentiary may be permitted to go outside to work, and for that work he will get a diminution of sentence of one-third of the time he works. The result has been that we have men out at work all over the State of Colorado. We have more than 50 per cent of our prisoners out on the roads.

By GOVERNOR HADLEY—What is the population of your penitentiary?

GOVERNOR SHAFROTH—825.

GOVERNOR MANN—What is the population of your State?

GOVERNOR SHAFROTH—800,000.

GOVERNOR SHAFROTH continued—Now, then, of course you can't do this without having an exceptional warden, and in the selection of a warden I used the greatest care. I had many persons recommended to me; but the first thing I said was that I would not have a man for warden who took a drink. I felt that a man who drank would be setting an example that was very reprehensible. Also, in selecting my warden I selected a man who had not been known in politics. I wanted an expert on buying and on saving. He talked with me about his plans before I appointed him. I found that he was well posted on the subject of the treatment and handling of convicts and that he was deeply interested in the subject. His name is Thomas J. Tynan, and he is becoming well known all over the United States on account of his good work. One of the first things he said

after his appointment to office was, "I am going to put a gang of fifty men out on the roads at work, without a guard and see how it works." He put them out on trust in camp. The first camp was within a few miles of the city. The camp was open. It consisted of six or eight tents—tents for the horses, for the dining room and for the men to sleep in. During the day-time there were two men who acted as superintendents. They are necessary in that section of the country, because there we do rock work, most of our road building is in the mountains; consequently it is necessary to blast and to know where to blast, and it takes something of a skilled man to know how to do the work, but they are not armed. The men are given dynamite to blast the rock and they use it. During the night we have a trusty who keeps guard. He is the only man who has a gun. The men do as they like, sit up as long as they please; they have no ball or chain, no enclosure of the camp, nothing in the way of restraint except that one man. Of course, means of entertainment are furnished these men. A phonograph is used, literature is sent to them. They work during the day, and the balance of the time they have to themselves. Such a change has been produced that the men inside the penitentiary walls are most anxious to get out on road work. The men in the camps themselves become guards for each other. We had a man escape not long ago and one of the men who was working with him saw him, thought he was going to escape, went to the camp, got a gun, followed him for eight hours, at last caught up with him, made him surrender, brought him back to camp and gave him up to the authorities. The man who attempts to escape goes back to the prison walls and has to serve out his maximum sentence. Consequently it is a terror to them to be taken back from the road to the prison walls.

There is a mode of procedure for preparing prisoners for outside work. They are all applicants for the privilege of doing road work. The warden calls a prisoner in and talks to him; tells him he thinks he is going to trust him; that he is going to put him on his honor; makes him swear that he will not escape; makes him swear that he will prevent any other person from escaping, and then sends him out on the road. The result is that they think the breaking of that oath to the warden is a

greater crime than the offense that put them in prison. We had one man who escaped and went to one of the Eastern States (I think to Ohio). One day the warden got a letter from him and he said he wanted to come back. He said, "The thing that has been bothering me all the time is that you trusted me and I broke the oath, and I want to come back and serve my term out." The warden wrote that he would receive him back; but would not go after him. The man wrote and designated a day that he would be there; and he got there that day, though not until late in the afternoon.

Of course, when we look at the men in the penitentiary, while we find many who are depraved, we find a great many who have excellent qualities—there is a spark of honor still left in their souls. By reason of trusting a prisoner you can often bring about a development that will make him an excellent citizen when he has served his time. In our State the system is so organized that hardly any of the men who go to these camps for the purpose of working ever think of escaping. There was a life-term prisoner that left the camp at Fort Garland, about sixty miles from Denver, and walked to Denver and went before the Prison Board and told his tale of why he should have his sentence commuted, and they granted him a commutation of sentence, so he was no longer a life-termer. Usually life-termers are not permitted to do road work. The reason is, he has not this incentive of getting time off, and it is on that account that very few life-term prisoners are in these camps, and yet the warden knows some of them so thoroughly that he does let a certain percentage of them go on the highways. The result is that, right now, we have about twenty life-termers at work on these public highways.

Of course, it is needless to refer to the fact that this means dollars and cents to the State, because these men in my State would be worth two dollars a day, and if you multiply 400 by \$2 that is \$800 a day, not directly, but indirectly, which the State derives from their work; and when you take into consideration the work they have done you will see what great benefit it is, for I am sure every one will admit that their work has been excellent. The warden tells me, and he has had a great deal of experience in road building, that he has never had pay labor

that would do the amount of work the convicts do. They work with an intensity that is surprising. I went around to several of these camps with the warden, especially where rock work was being done on the road in the Royal Gorge, and we found the convicts working as though they were competing in a race. It is true they were trying to establish a record, so that the warden would not even consider taking them back to the walls of the penitentiary.

GOVERNOR MANN—What work do they do inside the penitentiary walls?

GOVERNOR SHAFROTH—They make all the shoes and clothes for the prisoners. They have a lime kiln in which lime is prepared for sale. They do not compete in other lines with free labor. The lime kiln does so, somewhat, but lime is in such demand that there seems to be no objection on that score. We have had practically no objection coming from labor for working these men on farms or roads. In the case of the farmer he has a world's market and the output of the prison farms would not decrease the price of wheat, barley or corn the 100th part of 1 per cent, and for that reason the farmer does not object to it, and they know it is a benefit to the convict. With labor organizations passing resolutions in favor of the warden, you can readily see there is no opposition, of a substantial nature, on account of these men working, either on the farm or on the road.

GOVERNOR MANN—What does it cost to work these men?

GOVERNOR SHAFROTH—Thirty-three and one-third cents a day when he is out on the road or in the field, and of course the margin of profit is very great. We have constructed some roads that I want to call your attention to. I intended to bring a picture of them. One of these is a "sky-line" drive near Canyon City. It is a drive that is made on the top of what is called a "hog's back"—a long ridge resembling a hog's back—which runs along not exactly level, but has been made nearly level. You can look down from either edge or side 500 or 600 feet. Right on top of this sharp ledge, this "hog's back," a "sky-line" drive has been constructed, which is a splendid piece of road work. Then there has been constructed a road leading from Canyon City to the Royal Gorge in the Grand Canyon. The sides of this gorge are nearly perpendicular and extend to a



height of two thousand seven hundred feet. The warden kept a record of the work in constructing that road, and if you count it on the day price for laborers in that part of Colorado, which is two dollars per day, it would cost to construct that road between \$30,000 and \$40,000, but the total expenditure to the State was \$6,400. Of course, that road would not, probably, have been constructed for years by private means. On top of that gorge there is a flat space of some eight or ten acres, and yet you can look down twenty-seven hundred feet and trains look like toys. Then there is a road from Colorado Springs to Canyon City. These roads, I am satisfied, will compare favorably with the roads of England or France. They are narrow roads, not to exceed 18 feet in width and are constructed of gravel and rock. There are some 42 miles of the road leading from Colorado Springs to Canyon City.

Then the convicts have been working in different parts of the State where it is not mountainous, at Fort Garland and a number of other places, but the most impressive work is in the mountains, where they have produced some really wonderful roads.

Question—Do they wear stripes on the road?

GOVERNOR SHAFROTH—No; the warden I appointed, when he went into office, thought he would make a change in that line; so he decided that the striped suits should be taken off after ninety days, and after that a blue suit and after that a khaki uniform; and he has changed that in the last year. He has said that every man who has entered the prison is going to become a real man, make good, and he does not put them into stripes at all, and the result is good, because that is the thing they hate most.

Question—What is the width of the track of the roadbed?

GOVERNOR SHAFROTH—Eighteen feet.

Question—Is that all macadam?

GOVERNOR SHAFROTH—Yes. It is not macadam in a sense; most of it is disintegrated granite. In those mountains they cut through rocks. But the dirt work is nearly all a substance of ground rock, ground by nature, and consequently it is compact; there is no mud, no such thing as miring in the mountains.

Question—I mean the rock part.

GOVERNOR SHAFROTH—Well, it goes up on the sides, it may extend forty or fifty feet. The traveled portion is only eighteen feet wide—that is wide enough for teams to pass, and that is all that is necessary. Sometimes where they encounter difficult points, it is not so wide, but they have turnouts in order to meet that difficulty.

Question—Do you use the oil binder?

GOVERNOR SHAFROTH—No, we have not gotten to that. In the city streets they do, but we do not work the convicts in the cities at all. We have taken the convicts to Denver occasionally. The warden concluded not long ago that he would take them to a theater in Denver and he thought it did them good. Of course, work of that kind creates a bond of good feeling between the warden and the prisoner, and they will do anything they can to please the warden. He is their best friend—in fact, I am always the bad partner, because I have to decline to pardon them. The result is that he stands in between the prisoner and myself, which I think is all right and satisfactory. There is one thing that we cannot overlook in this treatment of the prisoner, and that is, that while the State gets something in the way of dollars and cents from their work, there is a great difference in his morals and his physical condition. The very fact that you trust him encourages a spirit of trustworthiness in him. You send him on a mission and show that you trust him, and this imbues him with a spirit of faithfulness to that trust. Put them in a road camp of forty or fifty convicts, knowing they can escape if they want to, but knowing also that they will be hunted most vigorously, and if they are captured they will be put back inside the prison walls and made to serve their maximum punishment, and they will not care to attempt to escape. Of course, the warden talks to them, tries to instill morals in them and shows them that when a prisoner gets to work on the public roads his sinews get strong, his physical condition is improved and his health is good, and that when he gets out of the penitentiary anybody will employ him; because people are not asking what your past conduct has been, but are asking, "Are you able to work?" And when you have given him the habit of working on the roads and the farm, you can rely on it he is sure to get employment as soon as he gets out of the penitentiary.

In the past it has been the case that, when a man came out of prison, his pallor and weakened appearance made people suspicious, and they would inquire, "Why this look?" and he had to tell, and nobody wanted him, and the result was that he had to commit another crime to get the means of life, and for that reason men came back to prison. But when you have given him a year or two on the road (and they all want to work on the road) the result is you have a man who is able to do manual labor and does not have to beg or starve and does not have to commit a crime to live.

Question—Are you an advocate of paying these men a nominal sum for their work?

GOVERNOR SHAFROTH—Yes, I think it will come to that, and I think probably a per diem of 50 cents will do for a start; but I want to see how the work we are starting out to do will result. Those who stay in the penitentiary don't want to work; those who get out on the road are eager to work. There is a certain per cent of those in prison who don't want to work, and discipline is necessary for those who say, "I won't work." There has to be a corrective for that, because work is essential to the health of the prisoner. So the warden has provided for this. He has a cell which is screened from observation, and he puts in it a pile of rock, and he puts the man in there, and he says, "When you break that rock you will get your dinner." The prisoner generally refuses to do anything; no knock of the rock; but the next day about noon he knocks that rock most vigorously. The pangs of hunger come on him; he sees he is not an object of view to the other prisoners. This plan was first started out in view of the other prisoners as an object or example, but the result was that the prisoner would hold out doggedly because of the taunts of the other prisoners. Therefore, we had to screen him off from view. You may put a prisoner in there, and it may be two days before he begins to beat the rocks, but he will find out he is wronging himself, and he will eventually go to work. We don't believe the severe punishment I alluded to is the solution of the problem. We believe in the certainty of punishment, and a law by which a man can earn his own liberty. I have felt it my duty not to exercise the pardoning power except in very rare cases.

Question—Does your Pardoning Board have pardoning power?

GOVERNOR SHAFROTH—No; they recommend to the Executive, and the Executive usually carries out their recommendation. I have in some cases refused to carry out their recommendation. One of the cases recommended to me was outrageous. I think the prisoner whose pardon was recommended is probably the most expert and dangerous criminal in the United States, but I cannot go into that now. The majority of the Pardon Board were in favor of pardoning him, but I insisted that he should not be pardoned, although I generally follow the recommendation of the Pardon Board.

Question—You say you have granted only one pardon?

GOVERNOR SHAFROTH—Yes.

Question—Does that include paroles?

GOVERNOR SHAFROTH—No, paroles are granted; the prisoner earns his own parole, the minute his minimum sentence is out.

Question—Do you grant paroles?

GOVERNOR SHAFROTH—Yes.

Question—Does he earn his parole unless accompanied by good behavior?

GOVERNOR SHAFROTH—No.

Then we have granted twenty or thirty reductions of sentence in order to bring down the sentence to an equality with the sentence of some other prisoner who has been sentenced to a much shorter term for the same offense. For instance, where a man has been sentenced for thirty years, in order to equalize his sentence with that of a man in the next cell, who has gotten four or five years for the same offense, the term is brought down. We have felt that, since the passage of this law, it ought to be recognized by every man in the State that when a man is convicted he is not going to be pardoned unless he earns his own liberty.

Question—Is there any limitation in your power to grant paroles or pardons?

GOVERNOR SHAFROTH—No limitation at all. Our parole system has an officer who keeps in communication with each man on parole. Every week there is a letter written to the man and he is required to answer.

Question—If you grant a parole, that puts a man on good behavior?

GOVERNOR SHAFROTH—Yes. There was one case where a man's wife was very sick in another State. I granted him a parole, without any guard. He stayed away a month and came back. He had but three months longer to stay in prison. We have a regular mode of procedure before the Board of Pardons. That Board consists of the Governor and four others. Where a prisoner claims innocence, his case is considered at once; but where a man does not claim innocence, he must wait one year before he can make application. There is an application blank, which makes him state his version of the crime, makes him state whether he has committed other crimes, whether he has been in other prisons or reformatories. There are probably a hundred questions he has to answer. When the warden gets that back, he submits it to the Secretary of the Board of Pardons, then to the judge who tried the case, then to the commonwealth's attorney who prosecuted the case, then to different witnesses who testified against the prisoner, and then the case is presented before the Board of Pardons. The second Friday of every month is set for the hearing of such cases. At that time the prisoner can appear, by counsel, if he desires, or by friend, and make any statement he wishes, not under oath, however, unless he so desires. After the Board of Pardons hears the case, pro and con, they deliberate upon the matter and make the report to the Governor. Under the old system a prisoner could come to the Governor, and he would hear one side, but heard no one on the other side; and the result was that many undeserved pardons were granted. Under this system, where both sides are heard, you can ascertain whether a man should be freed or not.

We believe that neither the severity of punishment, nor yet frequent pardons are either one the true solution of the question; but we believe that, with few pardons, with rather light sentences, with the certainty that those sentences will be enforced, with the incentive given to the prisoner to earn his own liberty, there will be produced a solution of this problem as complete as the people are ready to receive, and for that reason we feel that this policy we have been pursuing is good, and is bound

to result in fewer crimes and bound to result to a large extent in the reformation of the criminal himself. (Applause.)

CHAIRMAN CAREY—There is an old legend (I believe a hundred years old) that there was some difference existing between the Governor of Connecticut and the Governor of Virginia. So the Governor of Connecticut thought he would visit the Governor of Virginia and see if the difference could not be settled. The Governor of Virginia told the Governor of Connecticut that he was entirely willing to meet him in the spirit he came and settle the difference in a friendly way; that the only thing Virginia had against Connecticut was that Connecticut was selling too many wooden nutmegs made out of sassafras wood to the State of Virginia. It is now my pleasure to call upon Governor Baldwin, of Connecticut.

### “MODERN PENOLOGY.”

GOVERNOR SIMEON E. BALDWIN OF CONNECTICUT.

Mr. Chairman, Ladies and Gentlemen:

The term Penology—the science of punishment for crime—has been often used of late years as if it signified the science of avoiding punishment for crime.

There are, in our time, we may say, two schools of penology. One maintains that criminals should ordinarily be punished by subjection to some form of suffering. The other maintains that they should ordinarily not be made to suffer for their misdeeds, except as nature forces it upon them through the mind; but that their treatment by the State, whose laws they have broken, should be aimed primarily at their moral improvement. We may distinguish them conveniently as the classical school and the Italian school.

The Italian, or as we might also name it, the new school, is the noisier one. It attracts public attention by its novelty. It is the favorite of the magazines, because it is in principle opposed to the standing order of things, and lends itself most readily to sensational effect.

But it is much the smaller school. It is mainly made up of sentimental humanitarians, or theoretical psychologists. It is

strongest in Italy, where Beccaria's views have been the foundation on which, in the next century, Lombroso built.

Both schools may be considered as at one on several points. Among these are:

1. Discrimination in favor of first offenders. They are in many cases to be put on probation.

2. Discrimination against habitual criminals.

3. The punishment of children, to be treated as a distinct and separate method of proceeding, and in large cities to be put in the hands of special courts, organized to deal with children only.

4. Industrial schools or reformatories for the youth of each sex.

5. The use, within certain limits, of the parole.

We live in a day when one may almost say that any philosophy of human government that is not brand-new, stands presumptively discredited. Nevertheless, I shall venture to claim for myself a place in the classical school, so far as that differs from its younger sister.

We are apt to give too much credit to modern penology for the attempts of governments to soften the punishment of the young, and make it so far as practicable an educative process.

Two hundred years ago, Pope Clement XI erected at Rome the prison of St. Michael especially for juvenile offenders. Manual training was taught in it; and on the walls he put this inscription: "It amounts to little to coerce the bad by punishment, unless you make them good by instruction."\*

Modern penology, in both schools, has accepted imprisonment as the main method of punishment.

The old plan had been to use capital punishment very freely; bodily mutilation occasionally; flogging often.

Capital punishment which, in Blackstone's day, England inflicted for a hundred and sixty offenses, is now universally restricted to a very few, and has been totally abolished in many jurisdictions. Visible, bodily mutilation has also disappeared. Flogging remains only in exceptional cases, as for children. So far, it seems to me, that it should be preserved.

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\* *Parum est improbos coercere poena, nisi bonos efficias disciplina.*

A prison, do what you will, is a cheerless place, and its associations undesirable. Its maintenance brings a large expense to the State, which the earnings of the prisoners, in most cases, are quite inadequate to meet, particularly when they are serving short sentences.

The indeterminate sentence is the remedy for this, at present most popular. But for certain classes of offenders, it hardly fits the case. The wife-beater, for instance, or the burglar who uses torture to compel his victims to produce their valuables, ought to suffer a certain punishment which he may know beforehand. It seems to me that the prospect of a whipping—of course a moderate and private one—would often best answer that purpose. The law of England provides for this. I have myself, when serving on the bench, more than once sent culprits to jail where it would, I think, have been of more good to the interests of public justice to inflict a punishment shorter in duration and sharper in pain.

Particularly is this true of boys. A sound whipping is a remedy that the world has always recognized as belonging to their time of life. In the great schools of England birching has been freely dealt out by the best teachers, and it brings no shame, unless there be a want of pluck to stand it bravely.

In Scotland, whipping was strongly recommended as the general punishment for juvenile offenders, in a Parliamentary Report presented in 1895 by a Department Committee, appointed to consider the subject.\* In 1893, 335 boys had thus been flogged instead of being sent to jail; in 1894, 268; but the effect of this report was such that in 1898 there were 468 sentences to whipping and only 338 to imprisonment, while there was a diminution of the total number of juvenile offenders convicted by 178.

Virginia in 1908 reverted to a similar policy† by a statute authorizing whipping to be substituted for fine or imprisonment, at the discretion of the court, as the sentence upon a conviction for a misdemeanor of any boy under sixteen years of age, provided the consent of his parent or guardian be first given.

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\* Report of the Departmental Committee, etc., Edinburgh, 1893, xxxviii.

† Whipping was retained as one of the regular punishments in her code of 1860, but was abolished soon after the close of the civil war.



Let any one familiar with the administration of criminal justice, and desirous to make it better, turn the light of his own experience upon this subject; and as he looks back on the monotonous routine of the police court, with its sentence after sentence inflicted on the habitual rounder, to whom the jail has become a home, he must see cause to consider if one good whipping at the outset might not often have saved what has been not simply a wasted life, but a life that has wasted the property of the community and the peace of the State.

It is, in practice, often inflicted, in an irregular way, under authority of a court, upon young offenders. The choice is given to a boy, or perhaps his parents, whether he shall be sentenced to fine or imprisonment, or whipped by, or under the eye of, a court officer.

I think this is often a judicious method to pursue, but it would be more satisfactory if there were a statute to authorize it; and also if this authority were not dependent on anybody's consent.

I have said that visible, bodily mutilation has disappeared, as a punishment for crime. The romance of the *Scarlet Letter* will never be repeated. But modern penology, in certain cases, is reverting to bodily mutilation where it is invisible.

There is a certain crime of which one seldom speaks. Its very name has come to be banished from our newspapers. Yet the thought of it is a daily terror to every woman in the South, and brings a sense of uneasiness and constraint into the life of her Northern sisters. It is the cause of most of those lynching cases which disgrace our civilization. It is to be kept down only by the severest methods. Is it too much to say that if the courts are not ready to apply these, the people will? The people who may thus bring some ruffian to his death will not be the best people in the community. They will probably rush into acts of savage cruelty. They may occasionally seize the wrong man. But has a conviction ever yet been had in the United States of any one of a mob of lynchers for hanging a negro accused of rape?

That crime does a wrong to a woman which many of them have deemed worse than death. It is committed in a moment of strong passion, and generally by one excited beyond all bounds

of reason. He often repents the act, and repents it sincerely. His character before has often been excellent. Temptation, opportunity, came, and his will was not strong enough to resist it. Such a man is no fit subject for an indeterminate sentence. He has proved his inherent weakness of will-power.

In every clear case of rape, in my judgment, there should be an operation either of castration or vasectomy. Castration was thus inflicted in Connecticut in the eighteenth century. Towards the close of the nineteenth a petition by a number of women, headed by the wife of the then Chief Justice of the United States, was brought to Congress, asking that this might be the penalty for rape in the District of Columbia.

Such a punishment is not only retributive and deterrent. It serves the very useful purpose of absolutely preventing the repetition of the crime by the offender. But its main recommendation is that it precisely fits the wrong done. It puts on the criminal a shame of the same nature that he has put upon another. It dishonors and degrades, as he has dishonored and degraded.

It would be dreaded by most men, little less than capital punishment; but less it would be, for there are few who do not cling to life under the most adverse circumstances. Rape ought not to be punished as heavily as deliberate murder with malice aforethought. It is an offense that is seldom long premeditated, and to which men are urged by a blind, impetuous passion which, while it cannot excuse, may sometimes extenuate the wrong. Nor in the interest of the women, ought rape alone to be visited with as great a penalty as rape followed by murder. If it were to be, the murder often would ensue; for the dead tell no tales.

There are two objections, and really but two objections, to reinstating this ancient penalty of law.

It involves an act which might be criticised as cruel; and its effect is to lower a human life, beyond recovery.

As for the cruelty of it, the same degree of suffering is inflicted, for a purpose in one respect not dissimilar, on half of our larger domestic animals. We do not deem it cruelty to them. It is an adjustment to their environment in society. It is necessary to make it safe to keep them about us. So far as vasectomy is concerned, it has recently been pronounced not

a cruel form of punishment by the Supreme Court of Washington, and in several States there are laws authorizing the operation upon degenerates in almshouses, asylums or prisons.\*

There is a crime still meaner than that to which I have alluded, that a man can commit towards the weaker sex. It is when he lures a child into dishonor. The penalty to be measured out for any act must be partly determined from its natural consequences. This act, therefore, it might be argued, is not one to be punished as rape or murder is. But a sentence to mere imprisonment seems to me a very inadequate one. If every such offender were also smartly whipped, I believe there would soon be fewer of them.

The apprehension of resultant bodily pain is a strong deterrent to any course of action by the ordinary man or brute. It is nature's penalty for any abuse of our physical powers,—her inevitable penalty, we may say, in the end. The man has no right to complain who is made to suffer it for a physical outrage wantonly committed on a child.

I believe that President Woelsey of Yale University was right when he said that the only theory of criminal punishment which rested on solid ground was that to punish was to give the offender his deserts, and that government had a right to use its power for that end.

But if we were to accept the sentimental or humanitarian position, that the right to punish rests on the duty to educate the ignorant and reform the vicious, I should none the less insist that whipping was, for many cases, the best incentive to education and reform. He who has learned to refrain is half reformed. A whipping has a very direct tendency to teach a man to refrain from whatever is likely to entail another punishment of the same sort. It may be the salvation of a boy, who would otherwise be sent to the reform school that does not reform, or to a jail that he would find a school of crime. It may also be the salvation of a man. When in use in Connecticut no white man was ever whipped twice. He had learned his lesson.

Modern penology has these two schools but neither has failed to feel or to share the spirit of fairness and moderation which

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\* *State v. Feilen*, 126 Pacific Reporter, 75. Probably the most carefully worked out legislation of this kind is the New York Act of April 16, 1912.

came in with the nineteenth century and has thus far, even more strongly characterized the twentieth. In this country we began our history as a nation with a system of criminal penalties which is almost mediaeval. The first Act of Congress on this subject, passed in 1790, made, for instance, forgery of the securities of the United States a capital offense, and provided that public whipping, not exceeding thirty-nine lashes, and the pillory could be added to imprisonment in the case of several minor crimes. Similar laws then obtained also in many of the States.

The school which would accept penitence and good resolutions on the part of a criminal as a sufficient excuse for withholding prosecution or punishment, and throw the main blame for his misconduct on heredity and bad environment was not absolutely without its adherents here, however, a hundred years ago.

We have a striking, though unedifying example of the application of such doctrines, in a case which occurred in 1837. The Secretary of the Treasury had sent out an inspector to examine the condition of the various land offices. In one of these, in Mississippi, the receiver, Gordon D. Boyd, was found to be in default to the amount of over \$50,000. His predecessor had been also guilty of a serious misappropriation. The inspector's report contained this recommendation: "The man seems really penitent; and I am inclined to think, in common with his friends, that he is honest, and has been led away from his duty by the example of his predecessor, and a certain looseness in the code of morality, which here does not move in so limited a circle as it does with us at home. Another receiver would probably follow in the footsteps of the two. You will not, therefore, be surprised if I recommend his being retained in preference to another appointment; for he has his hands full now, and will not feel disposed to speculate any more." This convinced the Secretary, who followed the advice of the inspector that the defaulter should be allowed, as he offered, to give a new bond and resign, observing that this was "the frank and honorable course."\*

I noticed in the press last month a dispatch from Missouri purporting to show a tendency to soft-heartedness, on the part

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\* *Memoirs of S. S. Prentiss*, 11, 29.

of a sheriff, which perhaps exceeded that just described. He had brought a murderess back from California, where she had fled from justice. She had owned to the Los Angeles police that she had poisoned one woman in 1904 and another in 1905. Both of them had died, and she made this confession in order to anticipate a disclosure of the crime which was threatened by her husband. The sheriff declared himself satisfied that she was not insane, but announced that he should recommend a sentence to five years' imprisonment and an immediate parole.

The time allotted me will not allow any serious discussion of the indeterminate sentence, the parole system, the plan of suspending judgment, convict stockades, or trusting to the honor of convicts to serve out their terms, notwithstanding their employment outside of prison walls, with every opportunity of escape.

In determining the merits of the indeterminate sentence, it should be remembered that it is wholly untried, for ordinary offenders. In principle it is that sentences should never fix any term of imprisonment,—not even a *minimum* or *maximum*,—but leave its duration to be determined wholly by subsequent events. No government has yet made it, in its integrity, the basis of legislation. No such form of sentence, it is believed, has, until quite recent years, ever been known in practice (except in commitments of the young or of first offenders to reformatories) save under a despotic form of government, where the pleasure of the sovereign may not unfitly be thus expressed. Not long since, New South Wales adopted the indeterminate sentence for habitual criminals, and New Zealand, Victoria, South Australia and Tasmania have followed her lead. This action, however, it will be observed, is directed to the single class of incorrigible racidivists, and is primarily designed to prolong, not shorten, their term of confinement. But even as to them, it may well be questioned if a sentence to life, reserving a power of parole, would not better meet the demands of society.

To be sent to prison, there to remain during the pleasure of any man or set of men, hardly comports with the spirit of modern government. It is true that in most countries there is a power of pardon in the executive authority, which practically makes every sentence such. But the judgment of the law is

fixed. If pardon comes, it is not as part of the sentence, but in subsequent mitigation of it. It can also be accepted or refused, at the pleasure of the prisoner.

But as the phrase is used in the United States, the "indeterminate sentence" is understood to include judicial sentences to imprisonment in which no term is fixed, but which are pronounced under statutes providing that in all cases a person so sentenced shall be imprisoned for not less or more than a certain term particularly named in such statutes. The statute and the sentence are thus read together and have a concurrent and combined action.

The strongest reasons seem to me to favor the rule that terms of imprisonment should (subject to pardon or parole) be definitely fixed by the court which convicts and passes sentence.

The convict then knows the worst that is before him. He can lay his plans with assurance as to his employment after his discharge. He has received such a sentence as has approved itself to the magistrate or jury before whom his trial took place and who presumably have the best means of determining the degree of his guilt, the nature of his temptation, and all the circumstances of extenuation. The sovereign whose laws he has violated has received such satisfaction as was deemed sufficient; no greater and no less. The individuals whom he may have wronged have had an opportunity to compare his term of confinement with the measure of his guilt. The sense of public justice in the community at large is offended and every rogue, on the contrary, is encouraged, if punishment be not adequate and certain.

The sentence of the trial court is imposed at a time when the attention of the community has been concentrated on the crime and criminal. If it be the case of a first offense or an overmastering opportunity hastily embraced and soon regretted, sympathy will find voice both within and without the courtroom. It is the business of the judge to consider all and everything that bears on the measure of justice to be dealt out.

*"Judicis officium est, ut res, ita tempora rerum  
Quaerere: quaesito tempore, tutus eris."*

Nor are the concomitants of an offense less to be regarded when they are such as to aggravate it. The community must be made secure, and the criminal himself shares in the benefit of its security.

Retributive justice is part of the order of the universe. Every cause must and does have its effect.

If it be admitted that a criminal act has been done from a criminal motive, it follows logically that for this violation of the law the State must exact a penalty. A divine law may have been violated also. If so, there will naturally result to to all but the hardened offender, a certain punishment of the mind, in the shape of remorse. But the State cannot accept remorse as expiation. It cannot in reason. It cannot, if it follows the teachings of religion. In the words of St. Paul, the civil magistrate "beareth not the sword in vain; for he is a minister of God, an avenger for wrath to him that doeth evil."\*

Nor should the device of the parole be used so soon, or pushed so far, as to operate virtually as a pardon.

Within a year, a young man, living in New York, committed suicide, while under charges of having violated and then murdered a girl of twelve. There was little doubt of his guilt. On examining his record, it was found that he had been, a few years before, convicted of the violation of a girl of fourteen, committed to a reformatory, and released on parole after a brief imprisonment. No doubt the board of parole thought he could be trusted to go and sin no more. The event proved that they were wrong, but, had it been otherwise, public justice had not been satisfied by depriving him of his liberty for so short a term. Public justice demands serious punishment for serious offenses. (Applause.)

CHAIRMAN CAREY—The subject before the house is now open to general discussion.

GOVERNOR DONAGHEY—Mr. Chairman, on the question of penology, I would like to speak a few minutes. No rule, I think, can be gauged and determined except on the conditions in the State where the rule is to be applied. Now, while both of the speeches that have been made have been excellent, yet in the

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\* Romans, xiii, 4.

section of the country in which I live neither would fully apply. We have a different condition. To illustrate more plainly what I mean—if you remember, in a certain county in a Northern State a few years ago practically every citizen in the county was indicted for accepting bribes. Now, no rule of law could be applied to that, because in that section of the State it was so prevalent and it had become such a habit that the citizens did not believe they were committing a crime; therefore no court could afford to send every citizen in that county to the penitentiary. Now, one of the first things a State should do should be to remove the cause—the cause from which crimes are committed. One of the reasons is the selling and not having a sufficient penalty for carrying deadly weapons. Any State which permits any merchant within its limits to sell firearms to anyone they choose and then merely imposes a nominal fine upon the man who carries them, may expect bad results. Now, I could go further, but I will say just this, that since my term began as the Governor of my State, I have never pardoned a man for carrying a pistol. I have never pardoned a man for illegally selling liquor. I would go further if I could in preventing that practice, but that is a question you know that you can always get an argument on. Now, Governor Baldwin spoke of certain crimes being committed in certain sections of the country, and of the lynchings that have followed. Of course, there are crimes of that character committed and there are lynchings. And there is scarcely ever a lynching that there is not a jug of liquor just before the lynching. Now, I don't believe that lynching ought to be permitted under any conditions. I think the punishment should be certain. I don't think the taking of human life should be permitted under any circumstances. There should be a punishment, and a severe punishment. According to our information, the country of France abolished the death penalty and went back to it, on account of, as stated, the increase in crime. There is no punishment that will deter murder quicker than that of death itself. You know that—every Governor knows that. You all know that when a man comes to you and sends his friends to you pleading for his life with much fervor and earnestness; he just pleads for life, just to live a little longer. Now, under certain conditions men murder and permit murder. I dare say



here in Virginia, one of the oldest commonwealths in the country, or in Connecticut, or in Massachusetts, if a man steals a horse he will not have friends enough in one of those States to keep him from the penitentiary; neither would he in my State, or Texas, or Louisiana; but the same man might kill a man and nine times out of ten he will escape the penitentiary. Now, when a man can escape punishment for killing a human being easier than he can for stealing an animal there is something wrong. Pardons must be determined by the conditions, by the construction of the State's Constitution and laws. Governor Shafroth made an excellent and able speech; but he said he had only pardoned one man. I got from what he said that the parole was earned by the prisoner himself. Now, let me ask him what he would do with a man suffering from tuberculosis or some incurable disease, because of which he would just have to lie in prison and rot—or suffering from some disease that was dangerous to the health of his fellow prisoners? I think the State cannot afford to take a man like that for ordinary offenses and continue to wreak a revenge upon him. I think, therefore, the pardoning power ought to be exercised in certain cases freely, if necessary.

Then, there are other conditions which are wrong. Under the laws of my State the lease system prevails. I have done everything I can to prevent it, but in spite of everything the Governor can do certain influences prevent the legislature from passing a law abolishing that system. I believe, as Governor Shafroth said, that the punishment ought to be certain; but it is discouraging to the chief executive when he finds a certain class of men buying human labor for human profit; taking them out of the penitentiary and murdering them alive, and for no other purpose than that they may gather gold for their own pockets. Now, under conditions like that I am tempted sometimes to make a wholesale pardoning; but in thinking it over I conclude that probably we will work it out. We did attempt to pass a law by which the lease system would be abolished, but they got around it and it failed to pass. I think the same system prevails in certain other States.

After a man has served a certain time he may reasonably be turned loose on parole, I think; that is, wherever the Governor

has the power to give a full and free pardon, he has the power under the same constitution that gives him that power to do anything less than that. Recently I have adopted that plan myself—to discharge on parole, conditioned on the good behavior of the prisoner thereafter, and I think, 'fellow Governors, if you have not thought of it, that you might profit by that system. It has not been tested in my State, but I am trying it.

GOVERNOR HADLEY—Mr. Chairman: I think that whatever difference of opinion may exist as to the methods of handling our prisoners, that each must be determined by the results it brings, and the system we have been following has not brought good results. Statistics which have been collected by those who have studied this question show that the population of our jails and penitentiaries is increasing about three times as fast as the population of the country itself. That is an alarming situation, where we find crime on the increase, and where we find that the policy of punishment has been clearly understood. The policy we have been following is the policy of the certainty of severe punishment, and I think that is a mistaken one, because it has sent out the majority that have been punished, broken physically, broken mentally, broken morally and worse enemies of society than when their sentence began. I have dealt with this situation six years in trying to get them in, and four years in trying to get them out. We have the prison contract system in Missouri, and it is not good, because of the influence of the personal contact. The prison contract system in Missouri has prevented the establishment of separate institutions, consequently we have 2,500 people—men, women and children—in one institution, and that presents the phase that has been so hard for the executive to deal with. I found when I went into office that conditions were bad; a deputy warden had been shot, guards beaten and a general spirit of insubordination prevailed in our State prison. My experience has been that you must make the physical conditions as bearable as possible in order to get good results. We improved the diet, made it possible for them to feel good, to be clean, to live under normal conditions of life. I found something like 600 boys, under twenty-one years of age, in daily contact with hardened prisoners. I began commutation of sentences on condition of good behavior. I paroled 450 men

under 21 years of age, and only 31 of them have violated the conditions of the parole so as to be sent back to the penitentiary. We get monthly reports, and get some reputable citizen (not a relative) to be responsible for their conduct and we have pursued that policy with excellent results. In four years there has been no outbreak in the penitentiary. The warden says a better condition exists so far as the temper of the men is concerned than has ever existed before.

The conclusion I have reached is that the advisability of the system of punishment must be determined by the results that are secured. The punishment should be sufficient so that it will be a deterrent and yet instructive. Any system of penal servitude that does not send forth the prisoner better physically and morally, has something wrong with it. The reason we have not accomplished this result is because we punish the offense instead of dealing with the offender; we punish the crime instead of trying to protect society in the future. Just so long as we punish crime as an abstract proposition we will find that the statistics will tell the same story that it has been telling, and that is that the criminal population is increasing three times as fast as the general population.

GOVERNOR EBERHART—This question of imposing the death penalty. We have abolished it in Minnesota; abolished it two years ago, and while we hear the contention in our State that crime has increased, I have examined into it and find it unfounded; crime has not increased in Minnesota in the last two years. I am opposed to capital punishment; I think that when a man commits a murder he does not think of the penalty he has to pay; he thinks he is going to escape detection and punishment. There are other things that I personally should like to have brought up in these papers, which I think, as far as my observation goes, have a tendency to increase crime in America. In the first place we have a system of selecting our juries that is wrong. If a man has read a paper and formed any kind of opinion he cannot serve; if he has formed an opinion he is challenged and is usually rejected. Then there is the question of appeals and delays. I think the criminal often thinks there are so many possible pleas that he can take advantage of; for instance, he can plead insanity; there are fifty-seven different va-

rieties of insanity that he can plead. I believe in speedy trials and speedy conviction. I would do away with every possible appeal, except when it appears there has been a miscarriage of justice, and except in civil cases. Another question is the work. There is where we have the most trouble. I think my State has a greater number of prisoners than any other. We make twine and farm machinery. The State makes \$150,000 a year in profits from this work and we pay about \$3,000 a month to the families of the prisoners. If a prisoner has no family his earnings of 50 cents a day are saved for him until the end of his term. I think the State ought to earn a little less money and pay more to the families of the prisoners. It is true that the manufacture of twine is not as healthy an occupation as working on the roads, but we are constructing as sanitary factories as can be made and are manufacturing farm machinery, though trying to avoid competing with labor.

Two years ago we adopted the indeterminate sentence and the parole system. We have a Parole Board, consisting of the warden of the penitentiary, the chairman of the Board of Parole and an expert appointed by the Governor. These men have entire charge of paroling the prisoners. No parole is granted until after the prisoner shall have served one year, so as to enable the Parole Board to study the prisoner and see whether he is deserving of parole. I think that this is a better system, and perhaps it is one great mistake that most of the States are making, permitting prisoners to go out from the prison that have not been taught to know right and wrong. They should be kept longer and taught that. For that reason the parole system which we have does not specify the same system for each case, but leaves it with the Parole Board.

What I want to say is this—I think we ought to bring up the question of the problem of preventing crime as far as possible.

I tried to get a bill through our Legislature for a workhouse at the last session, but failed. However, I hope to get it through the next session.

As I said, I think the State is getting too much of the earnings of the prisoners and their families too little. I think that the major portion of their compensation should be paid directly by the State to the families of the prisoners. I could cite many

instances where on account of the imprisonment of men the women have been compelled to go out and scrub and do other work and leave their children unattended and free to drift on the streets and they, too, become criminals.

I don't think there is any question whatever but what the indeterminate sentence, with the parole system, is the better system, compelling every prisoner to work and support his family. We used to have the whipping post for prisoners in the training school; but I went over to see Governor Dix and examined his system in New York, and have found that it was unnecessary to use the whipping system and we have abolished it, and since the new superintendent took charge not one of the boys has been whipped. Fifty of the boys were allowed to go home Thanksgiving day, without guards.

We are getting good results and that is what we are after.

GOVERNOR GILCHRIST—Mr. Chairman: One of the Governors who preceded me said he would never pardon one convicted of carrying a pistol, another would not pardon one convicted of violating the liquor laws. If each Governor were to talk about five minutes, you would find a particular subject on which he is a crank. One man is a crank about pistol "toting," another about the liquor business. I am a crank on the following subject: any man who has been found guilty of stealing public money—trust funds—shall never be pardoned by me while I am Governor of my State. I agree with the gentlemen who have spoken as to certainty of punishment operating as a preventative of crime. I am also a "crank" regarding the necessity for the simplification of the legal proceedings of the courts so as to make right and justice the aim and end of all law, rather than "due process of law" the end and aim.

In the Bill of Rights of practically every State and of the United States, there is a section providing substantially that "no one shall be deprived of life, liberty or property or the pursuit of happiness," "without due process of law." In all these Bills of Rights there is also substantially the following, "Right and justice shall not be denied or delayed."

There is not a lawyer present, there is not a judge present, there is no one present, who ever heard it claimed in any court

procedure that "right and justice" was of equal importance with "due process of law." If "due process of law" butted up against the denial or delay of right and justice, right and justice gave the right of way to Mr. Due Process. Our courts should be remodelled so as to make right and justice the end of all law.

In 1878, I believe, the high court of England adopted substantially the following: "No new trial shall be granted, nor shall any case, civil or criminal, be reversed for any error in pleading, practice or procedure, for misdirection of the jury or for the admission or rejection of evidence, unless in the opinion of the court to which application is made such error resulted in the miscarriage of justice." In other words, in England, right and justice has right of way over Mr. Due Process. Wisconsin has passed such a law, California went farther. The present Progressive Governor urged the legislature to submit such an amendment to their constitution. This was done. The people ratified the same.

In the legislative session of 1909 I tried to bring about the passage of such a law in Florida. The legislature did nothing. I then took the "dignified" position that there are three departments of state: legislative, executive and judicial. After the adjournment of the legislature whenever I had the opportunity, I spoke of the advisability of the passage of such a law. I advocated it in the newspapers. I delivered an address along that line before the Press Association. Our legislature meets in the odd numbered years. When the legislature of 1911 met, I shot at them, by special message, a copy of an opinion of our Supreme Court in which the court held that the Governor was a part of the legislature. The court stated that the Governor was required to communicate with the legislature, by message, that he voted "aye" when he approved a measure and that he voted "nay" on a veto, etc. I then became practically a working member of the legislature. I not only made recommendations, but I had the bills drawn up and secured the introduction of the same generally in both houses, more or less simultaneously. The House Bill, on this particular matter, which we will call the bill on technicalities, was reported adversely by the judiciary committee of the House, composed of lawyers exclusively.

It was placed on the House calendar with the recommendation of this committee that it "do not pass." The Senate promptly passed the same bill and sent it to the House. The House Bill was ahead of the Senate Bill on the calendar. I said to the gentleman in charge of the House Bill, when the same comes up for consideration ask for a "yea" and "nay" vote on the motion to "indefinitely postpone." This was done. The House Bill was killed. I took the yea and nay vote and talked to such of those voting "nay" as I saw fit. In a few days I said to the member of the House in charge of the measure, call up the Senate Bill and though a copy of the same was recently killed by the House, yet the bill will now pass by 43 to 21—being two-thirds and one over, only a majority being necessary, however. Some members were absent. The bill passed by 39 to 19—being two-thirds and one over. That shows what work in a good cause will do. To accomplish results, our Governors must get in on the legislature with both feet.

With the technical proceedings of the law and the many chances of delay there is a feeling of disrespect of the law and Judge Lynch becomes enthroned. I have a high respect for Virginia for the way she handled her criminal cases—for instance, the McCue case and the Beatty cases; they were handled with due expedition and justice meted out promptly. I don't believe it could have been done in Florida, on account of the strength and influence of the families. I want to take off my hat to New York, too. They have accomplished quick results in this line recently. I am getting results, too, in Florida. I put in a bill in the legislature for a commission relating to pleading, practice and procedure. The business of the legislature became congested. The measure did not materialize. Our legislature adjourns by constitutional limitation at the end of sixty days. The legislature adjourns at 12 M. On the last day the legislature usually convenes about 8:30 or 9:00 A. M. and ceases to pass measures by 10 or 10:30—so as to allow all the measures to be enrolled and signed by the presiding officers, etc.

I drew up a concurrent resolution authorizing the Governor to appoint such a commission. One was introduced in the Senate and one in the House—exact duplicates. This was on the

last day of the session. Some one from the House informed me that the House had passed the House concurrent resolution and that it would go over to the Senate in five or ten minutes. Some one from the Senate informed me that the Senate had just killed the Senate concurrent resolution on the same subject. I said, "Who in thundred did it?" He said Senator — was the cause of its defeat. I immediately requested the said Senator to come to my office. I said, "Senator, I learn you killed that concurrent resolution; why in thunder did you do it?" He said substantially, "Governor, I thought you were trying to provide for a code practice to which I am opposed." Upon being reassured on this point, I asked him to tell the Senate that he was mistaken as to the intent of the measure and to advocate its passage, which he did. The measure passed.

I could tell you of several such instances. In my opinion, the Governor, who simply makes recommendations and who from fear of being criticised for becoming a part of the legislature and does not work to secure results, is far from doing his duty.

GOVERNOR BLEASE—Mr. Chairman: I presume that I am the only man in this Conference whose race for re-election of Governor of his State was based on the number of pardons which he had granted. A distinguished Supreme Court judge of my State, South Carolina, resigned from the bench and entered the race for Governor to redeem the State from what he saw fit to call "the pardoning Governor." In South Carolina the Governor has a right to pardon, to parole, to reprieve or to commute. There is no power which can stop him, or which can punish him, unless it can be proven that he has been corrupt in the pardons or paroles which he has granted. When I went into the executive office I found many people in the penitentiary who had served a long term of years for common offenses. Had the system of Colorado, as outlined by Governor Shafroth, been in effect in South Carolina, it would have saved me a great deal of personal trouble; but we have no such system. Very often a poor negro is sent to the penitentiary for a life-time, or for say twenty or thirty years. He is sent off to the penitentiary, and in a few years his old mother dies, possibly his old father dies, possibly his brothers and sisters may be taken away, and he is forgotten in the world. Not only is this true with the negro,



but also with some of the whites of South Carolina. None to petition; none to hire a lawyer; none to make an appeal for mercy; none to go before the pardoning board and ask them that his case may be considered; but he is left there forgotten, to die in prison. I have no criticism to make of the gentlemen who preceded me in that office, but I do say somebody was very negligent in their manner of treating the prisoners there. Petitions began to come to the office, signed by the people, and the best people, of the community where the offense was committed, or alleged to have been committed. I took the position that I was the servant of the people and under my Constitution and the Constitution of the United States they had a right to petition and they should not be deprived of it, and when a community where a crime had been committed, with the best people, the white people, signing the petition, said that the criminal had been punished enough, I turned him out without regard to criticism.

And then, Mr. Chairman, on the other hand, sometimes petitions would come in for political purposes, signed by my enemies, in order to get a pardon for some criminal who did not deserve pardon, for the purpose of using it against me in the political fight. There is where one must be very careful. I went to the penitentiary myself, all over it, and I blush to say it, my fellow Governors, we have a tuberculosis incubator there, turning out cases of consumption to go back to their families and spread the disease throughout the state. When I went through that tuberculosis incubator, as I call it, I found men dying at work, making money for people who fattened on the blood and bone and flesh of the poor criminal who had to work or take the lash, because he had no friend to plead for him. I took their names and I looked into the history of their cases, and today, I am proud to say, I think the reports will show that I have pardoned or paroled in twenty-two months about 400 people, and I hope by the end of my second term to make it 800.

Now, Mr. Chairman, we have conditions a little different from what was mentioned by the Governor of Connecticut. It is not always the case that the ruffian, the murderer or the blackguard uses the hemp rope. I have known in South Carolina some of

the very best men in it to go to the defense of the virtuous womanhood of their State and to lynch the black brute who dared put his hand on the body of a white woman, and I have said it on the stump all over my State that I would never order out the militia and ask the home boys of South Carolina to shoot down their friends and their neighbors to protect a black brute who had assaulted a white woman of our State, and I will never do so. Therefore, in South Carolina, let it be understood that when a negro criminally assaults a white woman, all they want to know is that they have got the right man and there will be no need of a trial, and there ought not to be any need of it in any civilized community. If we can't protect our white women from a black fiend what can we do for our country's civilization and for man's uplift?

Now, Mr. Chairman, I receive communications of this kind. But first, let me say—sometimes judges make very serious mistakes—judges are human beings—I will give you an illustration. Here stand two young men in a court, convicted of the same offense. I have seen it. The day for sentence rolls around. A man walks up and taps on the judge's private door and he enters; probably it is the lawyer who has defended one of the young men. He says, "Judge, John has been a good fellow all his life; he comes of such and such a good family; make his sentence as light as possible, won't you, on account of his family and prominent connections?" Directly another tap comes on the door and some friend of the same young man enters, and the same plea is repeated, and others come and the same story is told. The other poor fellow has nobody to speak for him. When the hour comes for the passing of the sentence on the two young men (possibly both having committed the same offense, such as assault or battery, with intent to kill), the judge says, to one, "I have been told that you are a good boy; that you are from a good family. I hope this will teach you a lesson; the sentence is that you go to the State penitentiary, or to the county chain gang for two years." The other one stands up. Nobody has spoken for him. No social glass has passed lips over his confinement; no cigars have changed hands, and his sentence is seven years, or maybe ten, in the penitentiary, or on the county chain gang. I say this is the time when the Governor of the State

should step in and see that equal justice is meted out, and then is the time when the pardoning power of the parole system should be used. I have had two instances of this kind to happen in the short time of twenty-two months that I have been Governor. A judge who now sits on the Supreme Court bench of my State wrote this when a petition was being presented for the pardon of a man who had been sentenced for a life term. After the petition has been received it is referred to the judge; it is then sent to the solicitor who prosecuted the case and then it comes back to the Governor, who may, or may not, refer it to the pardoning board. If it is referred to the pardoning board and they don't recommend the pardon or parole, the Governor can issue the pardon or parole if he chooses to do so. In this particular case, this judge wrote back this: "I recommend the pardon of this man, because I did not think at the time of his conviction and do not now think that he was convicted by that weight of testimony which was required, to-wit: beyond a reasonable doubt." Yet he sat there and committed that man to a life sentence in the State penitentiary, when he admitted himself, over his own signature, that he did not believe that man had been convicted in accordance with the laws of the State of South Carolina. What could you do but turn the prisoner out?

Today there is a man under sentence of death in my State—a negro, it is true—and the judge who sentenced him is one of the most conscientious men I ever knew; but here is what he wrote the other day: that he did not feel that this prisoner ought to be condemned to death, and that he did not think so at the time of his trial, and he respectfully recommended that his sentence be commuted to life imprisonment. Yet, because of the pressure of public opinion, instead of setting aside that verdict, or recommending the jury to bring in a verdict of life imprisonment, he sentenced him to the death chair. What are you going to do? Turn him down? No, save him. And when you do, then the press will come out and say, "Executive Clemency," in big head-lines, followed by the words, "Pardons and Commutations, so many to date." That is the proudest "So many" I have ever had said of me.

But that, gentlemen, is the system in my State today. The only hope for the prisoner in prison is through the Governor.

I passed through the penitentiary the other day. A negro came up and touched his hat and asked the captain of the wardens if he might speak to the Governor. The warden told him he could. The negro said, "Governor, may I speak to you?" I said, "Yes." He said, "Governor, I have been here twenty-two years for stealing a \$27 watch." I said, "What are you talking about?" He said, "Governor, my name is Jim Roberts, and I am from the county of Charleston, and what I tell you is true." I said, "What offense were you convicted of—burglary?" He said, "Yes, sir." I said, "If what you tell me is true, you will eat your Christmas dinner with your folks." I looked into the records and found that what he said was true, and he is going to eat his Christmas dinner at home, if I live.

Another one, a few steps farther off, came up, touched his hat, and said, "Captain, may I speak to the Governor?" He said, "Yes." The negro said, "Governor, I have been here eleven years and seven months for stealing \$9." I said, "What were you charged with?" He said, "Robbery from the person." I found that it was true; that he had been there nearly twelve years for stealing \$9. What could I do? Pardon him, of course. Now, gentlemen, that is the kind of cases that come before me. I believe we ought to have a system by which a man can work out his own parole; because, while I do not say it in any vainglorious spirit, "You don't always strike Governors who are not afraid of the political issue and who won't turn pardons down because of the political clamor."

In my last campaign for Governor I was fought by all the newspapers in the State of South Carolina, with the exception of three tri-weeklies; was fought by all the corporations, fought by the railroads, fought by the cotton mill owners and other powerful interests, in the bitterest campaign ever waged in the United States. I went on the stump in every one of the forty-four counties of the State of South Carolina and told the people why I issued these pardons, and 75,000 voters told the ex-Supreme Court judge that he was a statesman without a job and that South Carolina had no need to be relieved of her "pardon-ing Governor." Yet I was painted to the world, to all of the United States, as one who would be repudiated by a whirlwind of votes. Detectives were put on my tracks to see if they could

find that I had sold a pardon or that undue influence had been brought to bear to secure pardons or paroles.

If we had a system such as the Governor of Colorado has described it would not be necessary for me to follow the course I have in granting pardons and paroles.

I ask it of you, who are Governors of my sister states; do not take the word of any other man for it; go yourself into the convict camps; go yourself into the penitentiary. and ask the men why they are there and what for; because if you wait in your office for the petitions to come, you will find they can't come.

One day when I had been in my office as Governor but about two months, my young secretary came in, very much excited, and said, "Governor, there is an escaped convict in the next room; what must I do with him?" I said, "Ask him in here." He came in. He was a little dried-up negro. I asked him where he escaped from. He said from the State farm. I said, "How did you get away?" He told me. He said, "Governor, I have an old blind mother and two little sisters at home. My old mother has gone blind since I was sent to the penitentiary. She can't work and those two little children are too little to make their own living. I got out in order to get up a petition for pardon, so I can go and make a living for them. I had nobody to get up a petition for me; I had no money, my people had no money, and I simply wanted to get back there and get up a petition. I knew if I could get home and see my white folks I could get them to sign the petition and I have got it." He pulled it out and it was signed by the best white people of his section, and stated that what he had told me was absolutely true, and I found it was true. I knew it would not do to turn him out just then. All the prisoners might want to escape and bring back petitions; so I sent him back to prison. But in ten or fifteen days I sent that negro home to work for his mother and two little sisters.

Now, gentlemen, we have to go and see for ourselves. It is easy to condemn the other man; it is easy to sit in the jury box and condemn when you can feel the whole atmosphere around you say "Convict him!" When the judge himself proves to be a better prosecuting lawyer than the lawyer who is prose-

cuting the case. But when it comes to relieving suffering humanity—not from justice, but from injustice—that is the duty that we are to perform.

I believe as firmly as anything I believe on this earth that when the question may be asked of me, "I was sick and in prison and ye visited Me," and the answer is given it will be, "Forasmuch as ye did it unto one of the least of these, My brethren, ye did it unto Me." And, if these poor fellows shackled in the trenches, without friends to intercede for them, is not 'one of the least of these,' for God's sake, tell me who is.

GOVERNOR BROWN—Mr. Chairman: In the Constitution of Georgia we have these words, "Protection is the paramount duty of the Governor and shall be impartial and complete."

Now, take society from one end of a State to another and that act on the part of the officers of the government commands the most respect when it is applied equally to the rich or the poor; to the strong and the weak. In my first term there was nothing which brought such a wave of approval from one end of the State to the other as was the refusal to grant executive clemency to a rich man, of a very influential family, who had attempted a crime against a young woman. It emphasized to my mind the fact that if you can convince the poor that they are going to have the same rights and the same protection as the rich, you encourage the poor; you raise the minds of the poor, and they feel that they too are citizens and they will uphold the laws.

Now, regarding the penitentiary system of Georgia. We have the reformatory, to which we send youths who are not guilty of very serious crimes, and one of the last acts I performed before I left Atlanta yesterday was to order a 17-year-old boy sent to the reformatory, instead of the penitentiary, to which he had been sentenced. Then we have the experimental farm for those who are diseased or weak; and we have the regular penitentiary. Some of the convicts are worked on the roads. We have the outdoor camps which the Governor of Colorado so justly commends. We have the parole system, but our parole system does not allow a life term prisoner to be paroled until he has served ten years. As to other prisoners

they can be paroled when they have served the minimum sentence. I was struck by Governor Blease's statement about the fact that different conditions prevail in different States, and sometimes the people in different States take radically different views. There was no greater factor in securing my reelection as Governor than a promise I made that if re-elected I would not abuse the pardoning power. Before I took office as Governor the first time in twenty-six days twelve murderers had been released, and there was a wave of disapproval all over the State. Before I went in the last time a prisoner was pardoned and that pardon created the most intense indignation in the city of Columbus. Now, I am giving you this as an illustration to show that the people believe that the law should be upheld; that when a man makes himself an enemy of society, that when he is striking a blow at the laws of the State, he must come under those laws. During this past year the Legislature has amended our military law, and possibly you may be interested in knowing that under this new law that when a sheriff of a county, or a mayor, or the judge of a court calls upon the Governor to send the militia that it shall be the duty of the Governor to send them and it shall be the duty of the Governor at the same time to declare military law and see that the laws are enforced in that community to which the military has been called, if the community cannot enforce it itself.

There was a most infamous crime committed in Georgia by a negro on a white girl and she was killed. He was captured and I got a call from the sheriff and the mayor for troops to protect the negro from lynching. They were sent, and the negro was brought to Atlanta and duly tried and paid the death penalty. There was another case, where two negroes had been taken for a similar offense and the judge of the circuit court came to me and said, "I cannot hold those prisoners with the guard I have." I said, "I will send the entire military, if necessary." Four companies were sent. One confessed his guilt and the other was convicted. I had to declare martial law a third time in order to see that the criminals were hung under due process of the laws of Georgia. These instances may be a little tedious, but I am bringing them to

you to illustrate the fact that in the State where I live it is held that the process of the law of Georgia should be supreme, above everything. We don't admit the right of anybody in the world to press his feet upon the laws of Georgia, and it is only by that impartial enforcement of the law that we can say to the criminals that you shall be no worse off if you are poor than if you are rich; but you shall be as surely punished.

The constitution prohibits excessive punishment, but it does prescribe that there shall be punishment. It is held that the protection of society is the paramount duty and that it is above everything.

One point was touched upon here, upon which I shall make this further remark. Governor Shafroth was asked in relation to paying wages to the convicts, and as I understand it they do not pay them wages in Colorado. It is a matter that should be considered here. Here is a point that I have thought of. A man commits murder. He deprives the family of that man he has murdered of the one who supports it. This criminal is sent to the penitentiary. I suppose we must give him wages to support his family; but what about the family of the man he has murdered. Don't you think that we should say certainly half of his earnings shall go to the family of his victim? I have seen the idea advanced that the convicts should be paid wages for the support of their family, but have never seen any recommendation that the family of the victim should receive anything. And I hope if you gentlemen make any recommendations for paying them wages that you will have it provided that at least half shall be paid to the families of the victim.

GOVERNOR O'NEAL—I simply want to call attention to some suggestions in reference to some investigations of our criminal laws which I recently made in Alabama. I was so impressed with the fact that there had been to a large extent a breakdown in the administration of our criminal laws and judicial system that I appointed a committee of thirty leading lawyers of the Alabama State Bar, and urged them to meet in Montgomery on the 23rd day of May and undertake to revise our judicial system and suggest such remedies as they saw fit. I suppose that we all admit that notwithstanding the advance-



ment in our civilization that in the enforcement of our criminal laws we have not kept pace with the civilization of the country.

In the United States it has been estimated that there are 9,000 murders annually committed and that less than two per cent of that number pays the penalty of the law. The United States, according to reliable estimates, has 115 homicides per 100,000 of population, while France has 19 and Great Britain and Ireland have 27. In Great Britain one in every four charged with homicide is promptly hanged, while in the United States the average is one out of every 56, and even in my own State in one city more murders were committed in twelve months than in the Kingdom of Great Britain. That is an alarming condition, and I think it is not due to the fact that our people are less law-abiding, but largely due to the antiquated laws. We are administering the law today that was administered in the days of the Tudors. We have not made any progress in the administration of our criminal laws.

Mr. Taft recently made a statement that out of every one hundred cases appealed fifty were reversed, and a large number on technicalities, which, in my judgment, has increased crime.

I was impressed with what these gentlemen have said today about the necessity of the certainty of punishment. I think it is not only necessary that it should be certain, but swift. The great defect in the administration of our criminal law is that useless time is consumed in the trial of important cases. Take the case of Dr. Crippen in London for the murder of his wife, tried in four and one-half days. The Thaw case in this country lasted twelve weeks. We saw a case of a travesty of the law in California, where weeks and months were consumed in the empanneling of a jury in the McNamara trial, and in Tennessee—the trial of the Coopers for the murder of Senator Carmack—over 3,000 veniremen were summoned and examined before a jury was secured. Every man who had read a paper was disqualified to serve. The very qualifications which justified a man in being selected as a juror were the ones that debarred him.

A few years ago the Special Committee on Reform in Legal Procedure of the American Institute of Criminal Law and Criminology was commissioned to visit England and make an investigation of the criminal procedure of that country, and this committee, headed by Judge John D. Lawson, Dean of the Law School of Missouri, made a very exhaustive report, and here is what he said: "The Committee spent four months in the courts of London and the Assizes, where they were afforded every facility by the bench and bar of England for conducting their inquiries, and of the sixteen cases which the Committee saw tried in the Criminal Court of London, ten of which were for murder, arson or rape, only three consumed more than two and one-half hours, and several were disposed of in an hour and a half." Then another suggestion which he makes is that in England the judge is still vested with his common law powers; he holds the reins during the whole trial of the case; he has the power to stop attorneys from asking frivolous questions and he cannot be reversed for some little immaterial ruling on admission of evidence. In this country, as Mr. Taft recently said, the judge has no more power in the trial of a criminal case than the moderator of a convention. If he sizes up the issues of a trial he is liable to be reversed and the result is that unnecessary time is consumed.

The first suggestion I made was that the common law powers of the judges be restored and that they be invested with power not only to present the issues of fact, but to sum up the evidence to the jury and direct them as to the law applicable thereto. The provision of a law of that kind in every State would be of incalculable benefit, in my judgment, in preventing the unnecessary consumption of time which now occurs in the trial of every important civil and criminal cause. Mr. Justice Riddell, of Ontario, in a recent interview most strikingly illustrated the contrast between the administration of criminal law in this country and in Canada or England. He said: "I have been at the bar or on the bench about thirty years, and never, even in murder cases, have I seen more than half an hour consumed in getting a jury. I have never but once known a murder case to last as much as four days. Some time ago I went to hold the London (Ont.) Assizes. There were to

be tried four criminal cases, one of murder, one of manslaughter, one of serious embezzlement, and one of less importance, and eleven civil cases. At the time I opened my assizes in London, a court in Detroit, Mich., only a few hours further along the railroad, began to get a jury in a murder case. My four prisoners were on their way to the penitentiary and seven of the eleven civil cases had been disposed of before half the jury had been got together in Detroit. Our criminal law is codified in the simplest form, and there is not an appeal once in fifty cases."

These are facts which ought to give us pause. In my State there has been aroused public sentiment in reference to the enforcement of criminal laws. A man is convicted of murder, an appeal is taken to the Supreme Court, ninety days is allowed by the supreme court in which to appeal, the judge generally extends that time; then it awaits the call of the division in which the county in which the conviction is had is situated, that call is only made twice a year; the result is that the appeal scarcely ever reaches the Supreme Court until after a lapse of six or nine months, and one, two or three years elapse before the termination of the case, and very often there is a reversal and another trial is necessary.

Another suggestion made by myself, and which the bar has ratified, is that all criminal appeals should be perfected within sixty days from the entry of the judgment of conviction; the bill of exceptions to be filed with the trial judge within twenty days after the conviction and to be acted upon within twenty days after being filed, and that when the appeal and bill of exceptions is approved the record must be sent to the Supreme Court within thirty days, and when that record reaches the Supreme Court it becomes a preferred case and must be disposed of at once.

The next reform I propose is the adoption of the rule which now exists in England, and which now prevails in several States of the Union, and which has been endorsed by the American Bar Association, which is in substance that the legislature shall enact a law that no judgment shall be reversed and no new trial shall be granted on the ground of a misdirection of the jury or improper admission of evidence or fact, or

error in any matter of pleading, practice or procedure, unless in the opinion of the appellate court, after an examination of the entire case, it shall affirmatively appear that the error complained of has resulted in a miscarriage of justice.

(3) The practice in the trial of causes, civil and criminal, to be governed by a legislative practice act, to be as brief as possible, covering the substance of procedure and supplemented by suitable rulings of the courts, the courts being clothed with ample power to make rules for the orderly and expeditious dispatch of causes, unhampered by technical statutory requirements. In other words, abolish the greater part of the statutes regulating procedure and in place of those statutes give power to the Supreme Court of the State to adopt rules of procedure covering all matters of a general nature, with power on the part of the trial judge to adopt such simple supplemental rules as may be needed in the peculiar conditions of his district.

(4) Allow the State the same number of challenges as the defendant, and reduce the number of challenges in both felonies and misdemeanors. In Alabama, as well as many of the Southern States, the State is allowed very few challenges as compared with the defendant. I could never see any reason why the defendant, who is vested with all the powers of assumed innocence, should have the right to exercise more powers in reference to challenge than those vested in the State.

(5) Allow the State as well as the defendant a right to a change of venue, whenever in the opinion of the court it is necessary. That is absolutely necessary in a certain class of cases, because in Alabama and in other States where certain crimes are committed, such as lynching, and an effort is made to apprehend and convict the members of the mob, it is almost impossible to convict the guilty parties; but with the power given to the court to have these same cases tried in some other county it would be possible to convict these parties.

(6) Abolish all new trials except in rare or unusual cases when the appellate court might desire new light on the facts.

(7) Give the Appellate Court or the Supreme Court authority, if it can be done constitutionally, to render final judgment in all cases, civil or criminal, increasing or diminishing recov-

eries in civil cases and sentences in criminal cases in their discretion. Let the record in every case set out the entire evidence and let the defendant know that in the event of a new trial after reversal he may receive a greater punishment than that inflicted on the first trial.

(8) So amend our jury laws as to require all persons in a county who are competent to serve as jurors and eliminate practically all exemptions.

(9) The fee system wherever it exists for the compensation of prosecuting attorneys should be abolished.

(10) Allow no prosecution for misdemeanors except on the indictment of a grand jury, or upon information filed by a solicitor or an assistant solicitor of a county, so preventing a mass of frivolous and unfounded prosecutions now encumbering our dockets.

(11) Abolish all turnkey fees, a prolific source of many frivolous prosecutions.

(12) All courts to be kept open at all times except during a reasonable summer vacation, and the judge be given power to empanel a jury at any time.

Probably these reforms may exist in some of the States.

Now, the trouble in Alabama, as in most of the States of this Union, is that we have surrounded our criminals with a magic circle of technicalities, by which those who are guilty escape a just punishment of their crimes, and we can make no practical reform in this country until we change these conditions, and we will always be subject to the reproach that notwithstanding the high position we occupy as a nation that in the administration of our criminal laws we take the lowest place in the annals of any country, and the record shows that human life is not protected in this State as in Canada and England.

I believe the trouble with our criminal and civil laws is due to the inadequate and antiquated form of our criminal and civil procedure. There has been no progress. In Alabama I shall undertake to have these reforms enacted into statutes.

What I have tried to do in Alabama is to follow the system in England; that there shall not be so much severity, but certainty and celerity. That is what deters the criminal—if he

commits a crime and is tried the next week and sentence is executed at once it will have the desired effect.

There is one thing that can be said for Virginia, and Massachusetts and New York, that is, that human life is protected. The recent trials in these States show that when a man commits murder the electric chair awaits him; that no power can intervene to save him from a just punishment for his crime.

We have been troubled very little with lynch law in Alabama, and I cannot agree with the position that mob law is a remedy for any condition that exists in any community.

During the framing of the present Alabama Constitution a resolution was offered to the effect that whenever a lynching occurred, the victim being taken from the sheriff, the Governor should have the power to suspend such sheriff and fill his office, pending an inquiry as to whether the crime could have been prevented by him. It was passed, but sufficient influence was exercised to secure its reconsideration and it was defeated. However, a provision was incorporated in the Constitution whereby, under such circumstances, the Governor might order impeachment proceedings to be brought before the Supreme Court against such offending officer. That was regarded as a reform of no consequence, but it has worked most admirably. During the administration of my predecessor a man charged with murder was taken from jail and lynched. Impeachment proceedings, under the section of the Constitution mentioned, were had against the sheriff and he was removed from office. Early during my administration a negro charged with the crime of rape upon a white woman was being held in the jail at Union Springs, Alabama, for trial and I received information that there was talk of lynching. I immediately communicated with the sheriff by wire that he must by all means protect the prisoner; that I would furnish him troops as soon as a train could be chartered and the transportation arranged, which would be, at the furthest, two hours; but that he must at all hazards protect the prisoner; otherwise I would ask the Supreme Court that impeachment proceedings be taken against him. The prisoner was taken from the jail and lynched. I had the facts thoroughly inves-

tigated, until I became convinced that the lynching was through his connivance, or his neglect of duty. I immediately requested the Supreme Court to commence impeachment proceedings against him. The result was he was removed from office, and as a consequence there has not been a lynching in Alabama since that time. I believe Alabama is the only Southern State that can boast it has not had a lynching in two years.

GOVERNOR KITCHIN—I simply wish to interrupt to say that North Carolina has not had a lynching in four years.

GOVERNOR O'NEAL continues—I stand corrected by the Governor of North Carolina. I am glad to learn that North Carolina has such a good record. Recently I received a message of this kind from a sheriff in Alabama. He said: "I have a man charged with murder—a negro—and I fear he will be lynched unless you get troops here tonight." I replied: "I will get troops to you as soon as I can, but I want to give you notice now to secure a posse and protect the prisoner; if he is lynched I shall have you impeached. I say to you as I have said to every sheriff in Alabama, if a prisoner is taken from you and lynched I shall institute proceedings in the Supreme Court to have you impeached and removed from office." That prisoner was not lynched. I got a message from the sheriff that he had removed the prisoner to another jail and saved him. He said, "I had to hire an automobile to remove him, which cost me \$50, but I knew that unless I did save him you would have me removed from office." These instances prove that this statute has been very effective. Of course, the sheriff would probably not be impeached if tried in his own county, but when the trial is removed before the Supreme Court and it is proven that the sheriff is guilty of connivance or neglect of duty the due process of the law is carried out.

I think in reference to the punishment of criminals that the proper exercise of the power of parole is one of the best solutions of the problem. In Alabama there is no limitation to the power of the Governor to parole. He can require that the prisoner shall abstain from the use of intoxicating liquors; he can require that he shall retire at a certain hour or prescribe such rules as he thinks proper for the conduct of a paroled

prisoner. A minister of the gospel said to me the other day that he was utterly surprised at the efficiency of the parole system; that he had not agreed with it until he had seen its workings; that there were several paroled prisoners in his community and since they had been paroled they had been among the best citizens of the community, because they knew if they violated the law they would at once be returned to prison.

Now, with reference to the imprisonment of those affected with tuberculosis. I had constant appeals from men who had committed the gravest crimes in the calendar—red-handed murderers—that they were suffering from tuberculosis and appealing for pardon. I thought it was unwise to disseminate this disease and that it was a bad precedent to allow them to go out in the land and communicate this scourge to others; also that it was wrong to allow them to communicate it to their fellow prisoners. Therefore, under the power that I possessed as the chief or head of the Convict Department, I ordered that bureau to erect a Tuberculosis Department. A splendid hospital was erected on the most approved sanitary plans, and we now have in Alabama a tuberculosis camp for the prisoners which has been pronounced to be without a superior.

These questions I have touched upon I suggest briefly to the Governors for their consideration, and I would like, if we had time, to hear them discussed by the Governors here, because I wish to get the benefit of their experience on these questions.

I have received the following telegram from Governor Cruce:

“Oklahoma City, Okla., Dec. 3, 1912.

“Gov. Emmet O’Neal, care Governors’ Conference.

“Special session of State Senate convenes today, which makes it impossible for me to attend Conference. Express to Governors my disappointment and regrets.

(Signed) “LEE CRUCE.”

I also received a telegram from Governor Wilson, in which he states that he regrets very much that he could not be present; that he had thought the Conference was to be held the latter part of December rather than the early part. We Gov-



ernors of the South believe that it is well that President-Elect Wilson should rest now in order to prepare himself for his arduous duties.

GOVERNOR KITCHIN—I wish to say just a word in regard to the matter of statistics relating to crime. It was published in some papers of my State that New York had pardoned only ten people in six or eight years. The Prison Report of New York shows that two were pardoned and 539 released under parole in one year. As I understand New York pardons only when it is thought the convict is innocent and was erroneously convicted. That information, that is as to the number paroled, was not given to the people of North Carolina by the newspapers. It has also been published that there were only ten or twelve murders annually in England and from that number eight or nine murderers were executed. I wrote over there and asked for the latest statistics and obtained a statement of the Metropolitan Police District—I don't know how much territory that embraced, but I presume only the City of London—which showed that during the preceding year there were fifty-seven homicides (this was in 1910, I think) and three executions. There were far more acquittals than there were convictions, and the pardoning power was exercised there just as much in proportion to the number of convicts as it is here. It may be that when people speak of the small number of murders in England they refer to those cases only in which convictions are had.

I thoroughly appreciate what the Governors have said in regard to the court reforms needed, and I thoroughly appreciate what has been said about the difficulty in securing juries and the necessity for a reformation of the jury system; but I have not time now to do more than call attention to this thing of criminal statistics, and say that if we get the proper statistics and compare them with the statistics in other countries we will find that we will not show up with quite so bad a record by comparison as we sometimes hear.

On motion, duly seconded, an adjournment was taken until Wednesday, December 4th, 1912, at 8 o'clock P. M.



## SECOND DAY

WEDNESDAY, DECEMBER 4TH, 1912.

### EVENING SESSION.

The Conference convened in Executive Session at 8 P. M., Governor Gilchrist of Florida in the chair.

The secretary was directed to include the result only of the Executive Session in the record of the proceedings of the Conference.

### RECORD OF THE EXECUTIVE SESSION.

The committee on organization read and recommended the following articles of organization for the Conference:

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### ARTICLES OF ORGANIZATION.

#### ARTICLE I.

The style of this organization shall be the "Governors' Conference."

#### ARTICLE II.

Active membership in the Governors' Conference shall be restricted to the Governors of the several States and territories of the United States, the term "Governors" to include Governors-Elect. Ex-Governors shall be received as honorary members, and as such shall be entitled to all the rights and privileges of active membership except the right of voting.

#### ARTICLE III.

The functions of the Governor's Conference shall be to meet yearly for an exchange of views and experience on subjects of general importance to the people of the several States, the promotion of greater uniformity in State legislation and the attainment of greater efficiency in State administration.

## ARTICLE IV.

The Conference shall meet annually at a time and place selected by the members at the preceding annual meeting.

## ARTICLE V.

The Conference shall have no permanent president.

A Governor shall be selected by the Executive Committee at the close of each half day's session to preside at the succeeding meeting.

## ARTICLE VI.

There shall be no permanent rules for the government of the Conference in discussion or debate, but the procedure at any session shall be subject to the pleasure of the Governors present.

## ARTICLE VII.

The proceedings of the Conference shall be fully reported and published.

## ARTICLE VIII.

The affairs of the Conference shall be managed by an Executive Committee composed of three members to be chosen by the Conference at the regular annual meeting. They shall hold office until the close of the succeeding regular annual meeting and until their successors are chosen. Vacancies in the Executive Committee may be filled by the remaining members thereof.

## ARTICLE IX.

There shall be a permanent secretary-treasurer engaged by the Conference at a salary not to exceed twenty-five hundred dollars per annum who shall be under the direction and supervision of the Executive Committee and who shall hold such position during the pleasure of the Conference. The secretary-treasurer shall be reimbursed his actual and necessary expenses incurred while traveling on the business of the Conference and shall furnish a bond with sufficient sureties conditioned for the faithful performance of his duties. This bond

must first be approved by the Executive Committee as to form and the sufficiency of the sureties.

#### ARTICLE X.

The secretary-treasurer shall attend all meetings of the Conference, keep a correct record thereof, safely keep and account for all moneys, funds, documents, papers and other property of the Conference which shall come into his hands and render a full account thereof to the Conference at the regular annual meeting. He shall deposit all funds of the Conference in its name and shall exhibit his books and accounts to any member of the Conference upon application; he shall disburse the funds of the Conference as directed by it or by the Executive Committee, taking proper vouchers therefor, and shall perform all other duties usually appertaining to his office or as may be required by the Executive Committee.

The secretary-treasurer, under the direction and supervision of the Executive Committee, shall annually prepare a budget of the expenses of the Conference for the ensuing year and apportion the total amount thereof among the States and Territories, and communicate the budget and apportionment to the Governors of the States and Territories. Under the direction of the Executive Committee he shall make all necessary arrangements for a program for the regular annual meeting, and shall edit or aid any committee appointed to edit the stenographic reports of the proceedings of such meeting, publish and distribute the same, and shall perform such other duties as may be required by the Conference or the Executive Committee. He shall, also, so far as possible, cooperate and keep in touch with organizations, societies and other agencies designed to promote the uniformity and efficiency of legislation.

#### ARTICLE XI.

Persons not members of the Conference shall not be heard until the regular order of business for the day has been concluded and then only by unanimous consent. All programs for social entertainment must be approved in advance by the Executive Committee.

## ARTICLE XII.

These articles or any of them may be altered, amended, added to or repealed at any time by a majority vote of all Governors present and voting at any regular annual meeting of the Conference.

Moved that the report of the committee on organization be adopted. Carried unanimously.

Moved that Governors McGovern, of Wisconsin; O'Neal, of Alabama, and Ammons, of Colorado, be chosen as members of the Executive Committee for the ensuing year. Carried unanimously.

The Treasurer's report was read and approved, as follows:

STATEMENT OF THE ACCOUNT BETWEEN THE GOVERNORS' CONFERENCE AND JOHN FRANKLIN FORT, TREASURER, PRESENTED TO THE CONFERENCE HELD AT RICHMOND, VIRGINIA, DECEMBER, 1912.

800 books of the proceedings of the Governors' Conference, held at Frankfort and Louisville, Ky., 1910:

Paid for printing same-----	\$332.00
Paid for binding same-----	237.72

1,000 books of the proceedings of the Governors' Conference, held at Spring Lake, New Jersey, 1911:

Paid for printing same-----	627.00
Paid for binding same-----	274.78

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Total payment-----	\$1,471.50
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Credit:

By cash received from Governor McGovern, of Wisconsin, from moneys in his hands-----	500.00
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Over payment due the Treasurer-----	\$971.50
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Respectfully submitted,

JOHN FRANKLIN FORT, Treasurer.

Moved that each State be assessed one hundred and fifty dollars to defray the expenses of the Conference for the year 1912. Carried unanimously.

Upon invitation of Governor Shafroth, Colorado Springs, Colorado, was selected, by unanimous vote, as the next place of meeting and the exact date of meeting was left to be fixed by the Executive Committee. (The Executive Committee later fixed this date as Tuesday, August 26th, 1913.)

Moved that the secretary be directed to extend invitations to Ex-Governors to attend the next meeting. Carried.

Moved that the Executive Committee be authorized to pay the expenses incurred by members of the Conference in preparing and presenting briefs in the "Railroad Cases" pending in the United States Supreme Court. Carried.

Moved that a vote of thanks be extended to Governors Harmon, Hadley and Aldrich for their efficient services as a committee of the Conference to prepare and submit briefs to the Supreme Court in the "Railroad Cases." Carried.





## THIRD DAY

THURSDAY, DECEMBER 5TH, 1912.

### MORNING SESSION.

The Conference was called to order at 10 o'clock by Governor Dix, of New York, in the chair.

CHAIRMAN DIX—The Committee on Arrangements have received many applications for hearings on behalf of various persons who desire to address the Conference upon subjects of importance, no doubt, and of especial importance to the applicants. The Committee on Arrangements has no authority whatever to either grant or refuse a hearing at this Conference. To illustrate, the Conference by vote granted a hearing of twenty minutes at the close of today's session to those who wished to talk on "Equal Suffrage." This morning the committee representing the other side of that question has asked a hearing of five minutes.

GOVERNOR NORRIS—A lady representing the movement in behalf of the children of the South, as I understand it, has asked for a hearing, and there are a number of other applications for a hearing before the Conference and the matter is before the Conference for their determination. It seems that there is scarcely time for the discussion of the regular programme, however; in fact, it is doubtful if today and tomorrow will suffice for that purpose.

GOVERNOR VESSEY—I believe that we could afford to give ten minutes to the lady who wants to speak in behalf of the little children of this nation, and we could shorten our programme to that extent. She comes here from a long distance and at her own expense, and we believe that the Governors from the different States will be very glad at some time during the Conference to give her ten minutes to discuss this question, and I make that as a motion.

CHAIRMAN DIX—I have here a letter introducing Miss Kate Barnard of Oklahoma, who wishes to speak on the matter of Charities and Corrections, and I would suggest that at the

close of the programme of our Conference the time be given her to speak on this subject; but I think the programme as outlined should be carried out first. I would suggest also that the discussions be limited to five minutes to each discussion. I therefore suggest that at the close of today's programme, as well as tomorrow's, that any person who desires to be heard by the Governors be granted five minutes to speak on the questions they represent.

GOVERNOR HAWLEY—I am opposed to that. I have no objection to giving this lady ten minutes at the close of the programme, she having come a long ways for that purpose; but to have a general resolution giving anyone who desires an opportunity to discuss any question they wish would open up this Conference to all subjects, and we would never be able to get through the programme and would set a precedent for the future so that we would not be able to refuse like hearings.

GOVERNOR VESSEY—My motion is that at the end of this session this lady be given ten minutes.

CHAIRMAN DIX—The question is now whether we shall allow a certain number of minutes at the close of this session to Miss Barnard to speak on the subject of Charities and Corrections.

GOVERNOR KITCHIN—I will second the motion of Governor Vessey that we give Miss Barnard ten minutes after the close of today's session, and ask that it be made unanimous.

CHAIRMAN DIX—Those in favor of the motion that Miss Barnard be granted ten minutes at the end of today's session will signify it by saying aye; those opposed, no. The motion was unanimously carried.

GOVERNOR MCGOVERN—In behalf of two ladies who have come here to speak in behalf of the subject of "Rural Credits" I wish to ask similar indulgence some time tomorrow, when Dr. Johnson and Miss Noa ask for ten minutes to present their views on the subject. Their case differs from the others, in that they offer no new topic, and I ask that unanimous consent be granted for both of them to be heard for ten minutes at the close of tomorrow's discussion.

The motion was duly seconded.

CHAIRMAN DIX—Those in favor of the resolution that ten minutes be granted Dr. Johnson and Miss Noa at the close of

tomorrow afternoon's session for the discussion of "Rural Credits" will signify it by saying aye; those opposed, no. The motion is carried and it is so ordered.

### "A STATE INCOME TAX."

GOVERNOR FRANCIS E. MCGOVERN OF WISCONSIN.

Mr. Chairman, Governors and Ladies and Gentlemen:

"Amid the clashing of divergent interests and the endeavor of each social class to roll off the burden of taxation on some other class we discern the slow and laborious growth of the standards of justice in taxation, and the attempt on the part of the community as a whole to realize this justice. The history of finance, in other words, shows the evolution of the principle of faculty or ability to pay—the principle that each individual should be held to help the State in proportion to his ability to help himself."

So wrote Professor Seligman in introducing to the public his well known treatise on income taxation. The statement is so satisfactory that I can think of nothing better with which to begin this paper. Consciously or unconsciously the public mind has long turned to this as the correct principle of all sound fiscal legislation. In harmony with this thought the poll or capitation tax was adopted in primitive communities. But when property began to accumulate the injustice of the poll tax as the sole source of public revenue became manifest. It was then superseded by the general property tax. This latter system worked very well so long as property consisted mostly of land only; but with the rise of personality, especially intangible personality, the multiplication of the professions and positions compensated by salaries and fees, the creation of credit and its general use in commercial affairs, the general property tax departed each year farther and farther from the requirements of justice, until as the sole or even the principal source of public revenue it was discarded everywhere except in the United States.

Taxation next fell upon expenditure. In the changed conditions of a more complex civilization this was thought a better

criterion of ability to pay. As prosperity, increased, however, the defects in this plan became obvious. It favored the rich while falling heavily upon the poor. So, as Professor Seligman has pointed out, expenditure was abandoned as the sole test of faculty.

The succeeding stage in the development of a fiscal policy was the adoption of a tax on business in the form of product, or produce taxation. The "real taxes," so-called, of France and Germany as opposed to personal taxes, illustrate this phase. But it was soon found that in fact taxes are paid by persons, not by things, and that all taxes are ultimately paid out of income. Thus income—especially net income—was finally selected as the best test of one's ability to contribute to the support of government. It marks the final stage in the development of the philosophy of taxation. The great increase of wealth in modern times, the creation of gigantic individual fortunes, and the total failure of all attempts fully to tax intangible personal property, contributed powerfully to reinforce this tendency. Insistent and increasing demands therefore have everywhere been made for the establishment of systems of income taxation.

With the general nature, objects and underlying principles of this method of raising revenue you are all sufficiently familiar. I shall therefore confine what I have to say upon this subject to the recent legislation of my own State and the success that has attended its enforcement.

The reason an income tax was demanded by the people of Wisconsin was that the old system of personal property taxation had broken down. As to this there is no disagreement. Not in Wisconsin alone, but everywhere, the old method of trying to raise revenue by taxation of intangible personal property has completely failed. Instead of adequate revenue justly obtained the result almost uniformly has been inequality, discrimination, evasion, and, so far as this source goes, increasing deficiency.

Speaking of the entire country Mr. Lawson of Boston has just said in a magazine article that sixty billions out of the one hundred and thirty-one billions constituting the total wealth of the United States, are represented by stocks and bonds alone.

However this may be it is safe to say that in Wisconsin the value of personal property at least equals that of real estate. Each should therefore bear the same amount of the public burden; but the fact is that last year personal property paid less than 18% of the general property tax while land contributed over 82%. In many of the States the situation is even worse. I am told that in some of the larger cities of the East where vast quantities of intangible property are owned the assessed valuation has fallen to less than 2% of the taxable value of land. Thus men of great wealth through the ownership of this class of property escape practically all taxation. Meanwhile the workingman and small merchant are required to make up the deficiency by increased taxes upon their slender stock of goods and modest homes.

A careful investigation of 473 estates by the Wisconsin Tax Commission revealed taxable securities, such as stocks, bonds, etc., worth \$2,266,105, which had been assessed the year before at only \$74,995, or less than three and one-half per cent of their true value. The tangible personal property belonging to these estates, such as household furniture, pianos, wagons, carriages, etc., was worth only \$148,309, but was assessed at \$80,390, or 54% of true value. Thus the securities, which were worth fifteen times the tangible personal property, had actually been assessed for less. An investigation recently conducted in the city of Milwaukee showed that two hundred persons had twelve millions of dollars invested in assessable mortgages, stocks and bonds in other States and thus kept them entirely off the tax roll.

Failure such as this to assess all property subject to taxation inevitably produces inequality and injustice as between individuals. The same results are worked out also among the several municipalities of each county. The per capita assessment for instance of moneys and credits in the city of Milwaukee last year was \$29.38, and in the rich and prosperous town of Wauwatosa, immediately adjoining Milwaukee on the west, it was only thirty cents. In the village of Whitefish Bay in the same county it was \$11.07, and in the wealthier and more prosperous village of North Milwaukee it was only twenty-seven cents. In the city of Kenosha it was \$105.95, and in the prosperous town of Pleasant Prairie, close at hand, it was only six cents.

So also of the counties within the State. The assessed value of moneys and credits in Kenosha county last year was \$71.68 per capita, while in the neighboring county of Ozaukee, which is quite as prosperous, it was \$4.41. In Columbia county it was \$16.85, while in the neighboring and wealthier county of Dodge it was but \$2.94. In Green county it was \$34.58, but only \$9.52 in the wealthier county of La Fayette just adjoining, and but \$8.03 in Iowa county, immediately west of both. In Winnebago county it was \$15.26, and in Kewaunee, one of the prosperous lake-shore counties of the State, but ninety-eight cents. In Douglas county it was but a fifth of a cent and in six counties of the State there were no assessment of moneys and credits whatever. In Kenosha county the assessment amounted to \$2,360,000, while side by side, in the neighboring and richer county of Racine only \$663,000 were assessed, and in Douglas county, containing the second largest city in the State, only \$100 worth of moneys and credits were found.

These and other similar irregularities in assessment of property inevitably destroyed uniformity of taxation; but they did more. They introduced a vicious system of class legislation. A careful investigation of the assessments of 2,239 persons shows that if the assessment of the property of farmers be placed at 100 per cent that of merchants would be only 64 per cent and that of the manufacturers but 36 per cent. In other words, upon the same amount of property, farmers were assessed two and seven-tenths times as much as manufacturers.

Worse still, the poor were systematically discriminated against in favor of the rich. The plain fact is that under this system the poorer a man was the higher, proportionately, he was assessed, and the richer he was the lower he was assessed. Taking the assessment of persons whose personal property amounted to less than \$1,000 at 100 per cent, those whose possessions ranged between \$1,000 and \$10,000 were assessed only 82% as high; those who owned more than \$10,000 and less than \$50,000 were assessed at 60%; and those who owned more than \$50,000 and less than \$500,000 were assessed at only 43%; and all who owned over \$500,000 were assessed at only 28%. If a more serious criticism can be made of any fiscal scheme than this, I would like to have it suggested.

It was such facts as these that led Professor Kinsman, who assisted in drafting our income tax law, to say: "The French nobility, prior to the revolution, were made exempt from taxation by law; the favored class in America have become exempt by operation of law." In France this condition resulted in a revolution; in America revolutions are averted by reform. The specific form of remedy adopted in Wisconsin for the evils here sketched was a graduated income tax with proper exemptions.

Observe in the first place that it is not an additional tax but a substitute for the old broken-down system of personal property taxation. Under the new law many classes of personal property, such as money, credits, stocks, bonds, mortgages, household goods, wearing apparel, mechanics' tools and farm machinery are entirely exempt. Moreover, the tax upon all classes of personal property that are still accessible is allowed as an offset to the income tax. The practical effect of this provision has been well-nigh to abolish all personal property taxation. As soon as the results of income taxation justify it, undoubtedly the personal property tax will be completely wiped out and local government in Wisconsin will be supported by taxes levied only upon land and incomes. Then real estate may be assessed only once in four years instead of annually as at present; and as a result the work of tax administration will be wonderfully simplified and the expense greatly reduced.

The basis of this new tax is net income. This is obtained by subtracting from the gross or total revenue of an individual or corporation the deductions allowed by law, which include the ordinary and necessary expenses paid in carrying on the business from which the income is derived, such as salaries, interest, insurance, repairs, taxes and all depreciation losses not covered by insurance, and the exemptions to which I shall soon refer. An enterprise is thus enabled to get a start before the tax begins to operate; and when levied it varies with the amount of net income received. Unlike the personal property tax with its annual burden whether the business has prospered or not, and under which the only hope of relief comes from suppression of facts or violation of law, this system imposes

a reasonable and moderate tax when the citizen is able to bear it and no tax at all in unprofitable years.

The exemptions are so liberal as entirely to relieve the poor from the operations of the law. The idea was to exclude entirely the cost of subsistence; for there can be no wisdom or practical utility in taking from a man by the hand of the tax gatherer what must be returned to him at the hand of private charity or through poor house relief. The exemption of a single individual is \$800; of man and wife, \$1,200; and \$200 additional for each child under 18 years of age, actually dependent upon the parents for support. Thus the ordinary family of five has an exemption of \$1,800. No tax whatever can be imposed until the family income exceeds this amount. Thus all poor people, and all persons in merely moderate circumstances entirely escape taxation under this law. The poor man will not be affected because he has no taxable income. If he had he would not be poor. The burden will fall instead upon the comparatively well-to-do and the wealthy. Our first year's experience under this law shows that about two persons in every one hundred are affected by it. In other words, one family in ten will be called upon to respond.

Is there any other method of raising public revenues of which it can truthfully be said that it wholly exempts the poor? It is well known that indirect taxation, such as impost and excise duties, by means of which the national government is supported, falls most heavily upon the needy and unfortunate. The poor also and the moderately well-to-do pay the great bulk of real estate taxes; for three-fourths of all the land is owned by farmers and a large part of the remainder by home owners in the cities who are not wealthy. Should there not be some compensation? If the day laborer, the farmer and the small merchant in large measure support the national government, as they now do in the increased prices they pay for the things they eat and wear, and contribute through a land tax the greater portion of the revenues necessary for the support of state and local government, why should not men of wealth also do their share or something approximating their share, by means of an income tax? It seems to me the strongest argument in favor of this fiscal policy is that it provides compensa-



tion for well-known existing inequalities in other systems of taxation, and in respect of local government it tends to place the burden of maintenance upon the shoulders of those best able to bear it.

Under the Wisconsin law, moreover, the rate of taxation is graduated. Those who have small taxable incomes are assessed at a low rate; those with larger incomes are assessed at a higher rate. For the first \$1,000 of taxable income the rate is 1%; for the second \$1,000 it is 1¼%; for the third, 1½%; for the fourth, 1¾%; for the fifth, 2%; for the sixth, 2½%, and so on to 3, 3½, 4, 4½, 5, 5½ and 6 per cent, which is the maximum rate no matter how large the income. Thus the man of moderate means with a taxable income of \$1,000—and by taxable income is meant the income in excess of his exemptions and all deductions—will pay \$10 taxes, while his richer neighbor with a taxable income of \$5,000 will not pay five times as much or \$50 but 7½ times as much or \$75; and his still more prosperous acquaintance across the street with a taxable income of \$10,000 will not pay ten times as much, or \$100, but 25 times as much, or \$250. In like manner a man with a taxable income of \$13,000, the last \$1,000 of which is subject to the highest rate under this law, will not pay merely thirteen times as much as the man with the taxable income of \$1,000, but 41½ times as much, or \$415. Is it not clear that this is much fairer than the customary rule of general property taxation? It adjusts the burden according to ability to pay; and satisfies the test of equality, of sacrifice, recognized as fundamental by all economists; for a levy of \$415 upon a man of wealth will be felt less by him than \$10 taken for public purposes from the scanty savings of the comparatively poor.

Lest it be feared that this tax may bear too heavily upon men of means, let me say that it is in reality very moderate. Compared to the general property tax the rate under the new law is surprisingly low. Take for example the case of a thousand dollar five per cent industrial or railroad bond. Under the law as it formerly stood this security was taxable in Wisconsin at a rate that varied from eight mills to thirty mills on the dollar. In most places the rate was between fifteen and twenty mills; and the tax therefore would be from fifteen to twenty dollars.

Under the new plan the rate of taxation would be one per cent in the case of an individual whose taxable income is confined to this bond and the tax would be only 50 cents. This is from one-thirtieth to one-fortieth of the amount ordinarily paid under the general property tax. No matter how wealthy the owner of such a bond might be the rate could never exceed six per cent, or the tax three dollars. But this amount is only from one-fifth to one-seventh of the tax payable under the law as it stood before.

How, now, are the proceeds of this tax to be distributed? It is essentially a local tax. Seventy per cent of the proceeds go to the treasury of the city, village or town as the case may be; 20% to the county; and but 10% to the State, while the State bears all the expense of administration. Thus to the extent that revenue is produced in this way general property taxes will be correspondingly reduced. It is therefore not an additional burden but a relief to those who now feel most heavily the effects of the general property tax.

Most important of all probably are the administrative features of this law. For more than ten years the powers of assessment and taxation in Wisconsin have been centralized in a Tax Commission, consisting of three persons, expert in tax matters, appointed by the Governor for a term of six years, each at a salary of \$5,000 per year. Men of the highest character and qualifications for the difficult work of tax administration can therefore be secured; and concerning the ability and impartiality of the members of the Wisconsin Tax Commission no question has ever been raised. Under the new law this commission has appointed 39 assessors of incomes, one for each assessment district in the State. As there are 71 counties in Wisconsin some assessment districts embrace a number of counties while in many instances a large, populous and wealthy county constitutes alone an assessment district. The commission has power to fix the salaries of the assessors, transfer them from one district to another, authorize them to appoint deputies, and to remove the assessors and their deputies at pleasure, subject only to the provisions of the civil service law. Thus the tax is assessed by State officials instead of by locally elected assessors, who might be subject to local influences or pressure.

Mr. K. K. Kennan, author of the book entitled "Income Taxation" and chief of the Wisconsin Income Tax Bureau, writing upon this subject, has said:

"The most striking feature of the scheme for the administration of the law in Wisconsin is the degree to which the whole work is centralized in the hands of the State Tax Commission. This is a permanent body which has been in existence for ten years, and possesses greater powers and more ample facilities than any other tax commission in the United States. It is often said that a federal income tax law would be more successful than any State law for the reason that it is unaffected by local influences. The Wisconsin law has the same advantages."

The assessors have power to require all persons in their judgment liable to the tax to make a sworn return in writing as to all facts bearing upon the subject. Failure to comply with this demand, or making a false return, is punishable by fine or imprisonment. In cases of error or fraud reassessment may be made and penalties imposed. An appeal from the decision of the assessors may be had in the case of individuals to the county board of review, the members of which are appointed by the State Tax Commission, and from the decision of this board further appeal may be taken to the commission itself. Corporations are assessed by the commission directly.

Realizing that income taxation has failed in many States because of lax administration the greatest care was exercised in drafting the Wisconsin law to prevent evasion. The procedure for assessment in the case of corporations was so far as possible adapted to the requirements of the federal corporation tax. The blank form used for the enforcement of the federal law is the same essentially as that employed by the State in the assessment of its income tax. Wisconsin corporations make their returns to the State Tax Commission and to the United States government for the same year. The reports as to gross income, deductions and net income are the same. Under the federal law the Commissioner of Internal Revenue is empowered to order an examination of the books of any corporation to determine the correctness of the returns. The State Commission may do the same thing. In each case fines and imprisonment may be imposed for false or fraudulent returns. Thus, with the same

assessment year; with the same returns to be made by the same officers under the same oaths and subject to the same penalties; and with the possibility of re-examination by either the State or federal government, the danger of evasion is reduced to a minimum. A prominent member of the State bar said to me some time ago that he had spent two months trying to find a way whereby his clients might evade the Wisconsin Income Tax Law but that he had utterly failed and believed the law absolutely water-tight.

So much for the main provisions of the law. How has it worked? This, of course, is the vital point. The conventional thing to say about income taxation is that it is admirable in theory but that it has utterly failed in practice. By failure is meant that income taxation has not proved a success as a revenue producer; and so interpreted the criticism was sound so far as American experience went. Fortunately it is so no longer. Income taxation in Wisconsin is an unqualified success. It produces abundant revenues.

At one time or another twenty American States have tried income taxation and all have failed. The new law recently passed in Oklahoma produced less than \$2,500. Some States raised from \$7,000 to \$15,000 a year from this source. Others raised a trifle more and some much less. In 1899 Louisiana raised only \$104 by income taxation out of a total State tax of over \$2,000,000. The nearest approach to success has been made here in Virginia where as high as \$129,000 was recently raised in a single year—the largest sum heretofore produced in this way in any State in America in time of peace. The average yield from income taxation in the Old Dominion is I believe about \$100,000 per year.

What now is the fact in Wisconsin? In the face of bitter opposition and a multitude of difficulties incident to the administration of a new tax law we have raised the first year over \$3,500,000. Of this amount individuals paid \$1,108,707.02 and corporations \$2,392,454.44. In the county of Dane, where the capital of Wisconsin is located, the proceeds of income taxation amounted to over \$111,000, and equalled approximately the returns from the entire State of Virginia. In Racine county, the yield was over \$164,000; in Douglas county, almost \$178,000;

and in Milwaukee county it was over \$1,481,000. In the city of Milwaukee alone the income tax this year will amount to more than the entire proceeds of income taxation in any former year in all the States of America put together. Thus as a revenue producer the Wisconsin experiment has been a splendid success. When the bill was framed it was not anticipated that more than a million and a half dollars would be raised. Economists everywhere declared that if we should succeed in raising more than a million dollars in this way we would have demonstrated that income taxation is feasible in America. We have raised almost four times that amount.

It is sometimes said that the principle of income taxation will never be effectively enforced except by federal law. The plain fact is that the Wisconsin income tax law yielded more the first year of its operation than did the first federal income tax, although the latter applied to the entire country. The federal government collected from income taxation in 1863 but \$2,741,858. The balance in favor of Wisconsin is therefore almost \$800,000.

The personal property tax in Wisconsin this year was \$4,100,000. The income tax yield is therefore only \$600,000 less. With a few changes in the law and a more prosperous business year as a basis to go on next time it is likely that this difference will wholly disappear. Thus, the personal property tax may be abolished in Wisconsin at any time the people desire without imposing any additional burden whatever upon real estate.

In Milwaukee county this change could be made at once and land taxes also reduced; for the proceeds in income taxation in that county exceed personal property taxes for the year by nearly \$600,000. In consequence of these returns and the accompanying improvement in the administration of the general property tax, it is now proposed to reduce the tax rate in Dane county from  $17\frac{1}{2}$  mills to  $15\frac{1}{2}$  mills on the dollar; and in Milwaukee county it has already been determined to make a similar reduction from almost 17 mills to 14 mills on the dollar. These reductions in the rate of taxation together with the exemption from the property tax of all except a few classes of personalty, and the elimination of evasion, inequality and dishonesty in the administration of tax laws, justify the people

of Wisconsin in sustaining the principle of income taxation as they did in the recent election and in regarding the enactment of the present income tax law as one of the most valuable fiscal reforms enacted in the history of the State.

Where does the money raised by income taxation come from? The answer is in no way doubtful. It comes in the main from those who, though enjoying comfortable incomes, have hitherto paid little or no taxes and from rich men who have not been paying their full share. This is the second big fact disclosed by the trial of the Wisconsin income tax law. It tends to equalize the burdens of taxation by shifting them, in part at least, from the shoulders of the poor to those of the well-to-do and the wealthy.

A representative group of 382 persons in Milwaukee will pay this year in income taxes, \$176,808. Of this number 88 persons have each a taxable income of less than \$1,000. They are therefore people of only moderate means. They will pay income taxes aggregating \$487, or a little over five dollars apiece. This is less than three-tenths of one per cent of the total tax paid by the group. One hundred thirty-nine persons belonging to this group have each a taxable income of over \$10,000 and so may be regarded as wealthy. Together they will pay \$168,822 income tax. This is 95½% of the total tax paid by the entire group. Twenty-nine other persons have an annual income of more than \$5,000 but less than \$10,000. They will pay collectively \$4,210, which added to the taxes of those whose income exceeds \$10,000, amounts to almost 98% of the entire tax.

Analyze the facts on another basis and the same conclusion follows. The 88 persons with taxable income of less than \$1,000 who together now pay \$487 income tax, last year paid \$119 in personal property taxes. The increase in their case is therefore only \$368.

The twenty-nine persons whose incomes range between \$5,000 and \$10,000 will pay in the aggregate \$4,210 income tax this year instead of \$364 paid last year as personal property taxes. The increase is \$3,746. Most significant of all the one hundred thirty-nine persons whose incomes are over \$10,000 each will pay \$168,822 income tax this year instead of \$28,519

paid last year as personal property taxes. Here is an increase of over \$140,000. Clearly the income tax reaches the wealthy and makes them pay in a way they never paid before.

A comparison of the several occupations represented in this group leads to the same conclusion.

Twenty-five lawyers are included. Last year their personal property tax aggregated \$4,237. This year they will pay an income tax of \$12,360, or about three times as much. The increase in the case of twenty-one other professional men was from \$811 to \$9,137, an augmentation of more than elevenfold.

Forty brokers, salesmen and solicitors are included. Last year they together paid personal property taxes amounting to \$1,803. This year their income taxes will aggregate \$13,974, a sevenfold increase.

Seventeen capitalists belong to this group. Last year they paid personal property taxes aggregating \$1,448. This year their income taxes amount to \$13,233, an increase of over ninefold. These results, moreover, take no account of the very much larger tax that will be paid by many of these men on the income of corporations in which they hold stock.

These results justify the deduction that the income tax has succeeded as strikingly as the old personal property tax failed in compelling persons of means to contribute their just share to the support of government.

In Dane county 3,064 persons in all are subject to this tax. They will pay \$111,189.18. The 2,116 persons whose incomes are \$1,000 or less will pay \$8,945, or only about \$4 apiece. On the other hand, the eighty-six persons whose incomes are more than \$5,000 and less than \$10,000 will pay \$19,264, or an average of \$224 each. Forty persons whose incomes exceed \$10,000 a year will pay \$48,258, or on an average over \$1,200 each. Among 2,425 corporations and individuals whose income tax will exceed the personal property tax of 1911, one hundred and eight, or one twenty-fourth of all, will pay over \$46,000 income tax. Only sixty-eight farmers will have to pay any income tax whatever, and their aggregate payments will amount to less than 1½% of the total revenues thus raised. Over 5% will be paid by lawyers; 8% by university professors and educat-

ors; 10% by doctors and other professional men; 6% by merchants and manufacturers; and 47% by corporations.

Thus the income tax, though on its first trial, is accomplishing precisely what its advocates predicted. It reaches a new source of revenue. It does not increase taxes; but it equalizes the existing burden of public contribution and distributes it more equitably than has ever been done before. In the light of these facts surely no honest man can longer pretend to favor income taxation in theory, but oppose its operations in practice.

In the recent election campaign in Wisconsin the repeal of this law was the principal issue. Objections of every sort were raised. It was said that it is inquisitorial and prys into private affairs. The answer, sustained by abundant proof, is that it is the least inquisitorial of all methods of taxation except that of land. It was said that it would drive capital and business from the State. The facts show that it will secure the return to Wisconsin of capital driven out by the old tax upon intangible property, and stimulate manufacturing instead of discouraging it. It was predicted that it would cost more to collect the tax than the revenue would amount to. The fact is that it is the least expensive tax to levy and collect we have. The expense incident to the assessment and collection of an income tax aggregating \$3,500,000 is about \$40,000, or a little more than 1%; to be quite precise, one and fifteen-hundredths per cent. Heretofore the internal revenue duties have been considered the least expensive taxes to levy and collect. But the cost of collecting them last year was more than 1½%; and with two exceptions this is the lowest percentage since the year 1870. But it is higher than the cost of assessing and collecting income taxes in Wisconsin. The cost to the federal government of collecting the customs revenue the last year was 3½%. This is a normal and average figure. Property taxes cost from three to five per cent to assess and collect. So the objection of expense incident to the administration of a state income tax is found to be wholly without support. It is indeed a strong argument in its favor.

The experience of Wisconsin has proved the practicability and the desirability of State taxation of incomes. Why should



it not be introduced in other States also? Such extension would be advantageous in every way. It would benefit the States that have not yet adopted this method of raising revenue by equalizing in a more satisfactory way than has been otherwise devised the existing burden of State and local taxation, which is bound to grow larger every year. It would benefit the State of its origin by removing an objection that, though erroneous, persists in the minds of many intelligent people to the effect that the adoption of income taxation places industry subject to it at a disadvantage compared with rival establishments in other States not subject to such a law. True, it has been suggested that this much desired uniformity may be secured by the enactment of a federal income tax law. But to this program there are several quite obvious objections. In the first place, until the United States Constitution has been amended, no valid federal income tax law can be passed. Again, even should such an amendment be made, there is no certainty that Congress will ever pass such a law in time of peace. Finally, granting that the Constitution may be amended in the way now proposed and that a federal income tax law may be enacted in time of peace and while the national government is being supplied with all the revenue it needs from other sources, the objection still remains that the proceeds of this new form of taxation would go into the federal treasury to be expended for federal purposes instead of being disbursed at the very door of the taxpayer for the maintenance of schools, the paving of streets, the improvement of roads, the maintenance of police and fire protection and other like purposes. Uniformity in the taxation of incomes may be desirable but if possible it should be brought about not by national legislation, but by concerted action among the several States. Here is an opportunity to test the practical utility of uniformity secured by cooperation among the States. If feasible this course is certainly most desirable. It will provide additional revenue where it is needed and tend to equalize taxation where the greatest irregularities now exist. It will tend to enhance the dignity of the States as contrasted with national authority. It will mark the beginning of a wise policy which will have for its object greater uniformity in the legislation and public pol-

icy of the several States secured by mutual agreement among them.

There is a provision in our federal constitution which I believe has thus far been permitted to lie dormant. It is as follows:

“No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war unless actually invaded or in such immediate danger as will not admit of delay.”

By inference this provision permits the several States to enter into agreements or compacts with each other concerning any matter of common interest—such agreements to be binding when they have received the consent of Congress. Why may not this provision be now actively invoked by the several States at the suggestion and through the initiative of this Conference? If uniformity in legislation among the several States, desirable as it is, can be effected through concerted action, here is a definite plan for bringing the result about. I submit the suggestion without further elaboration.

Whether we see fit to favor it or not, a closer approximation to justice in the matter of state and local taxation is sure to be attained. So far as a State income tax may contribute to such result, it is bound to come. As Ex-President Harrison said in his address, “The Obligations of Wealth,” delivered before the Union League Club of Chicago in 1898, on the anniversary of Washington’s birthday:

“The great bulk of our people are lovers of justice. They do not believe that poverty is a virtue or property a crime. They believe in an equality of opportunity and not of dollars. But there must be no handicapping of the dull brother and no chicanery or fraud or shirking. The plea of business privacy has been driven too hard. If for mere statistical purposes we may ask the head of the family whether there are any idiots in his household and enforce an answer by court process, we may, surely, for revenue purposes, require a detailed list of his securities. The men who have wealth hide it from the tax gatherer and flaunt it on the street. Such things breed a great discontent. All other men are hurt. They bear a dispropor-

tionate burden. A strong soldier will carry the knapsack of a crippled comrade, but he will not permit a robust shirk to add so much as his tincup to the burden."

(Applause.)

CHAIRMAN DIX—The other paper on this subject will be delivered by Ex-Governor Augustus E. Willson, of Kentucky, after which the discussion will proceed.

EX-GOVERNOR WILLSON—I thank the Conference with all my heart for the courtesy of honorary membership in this Conference, and I thank the Conference and Committee on Programme for the distinguished honor of being invited to make this address upon this, which seems to me to be a very important subject. Contrary to my custom I have reduced my remarks to writing.

### "A STATE INCOME TAX."

EX-GOVERNOR AUGUSTUS E. WILLSON OF KENTUCKY.

Gentlemen:

Governor McGovern has presented so clearly and in such an interesting way, the Wisconsin State income tax, that it seems to me that I can be most useful in taking up the bearing of the proposed federal income tax on the State income tax.

As all taxes must be paid out of incomes, that tax, like the tithes of the Scriptures, is not only the best and fairest of all taxes, but is the oldest, and if collected for home use in the locality where other contributors live and know something of each other's circumstances and any man's evasion of it puts any part of his burden on his neighbors, it will, in the long run, be the most just, the most reasonable, and the least evaded form of revenue collection, while its collection for the federal government, far from each neighborhood, will result in evasions and opposition to the tax and to the government. I believe that a State income tax once enforced and fairly understood, will be paid better and felt less oppressive than any State tax under the old system.

I am very earnestly in favor of abolishing the present general property tax as grossly unfair and unequal and the present per-

sonal property tax as startling in its inefficiency, inequality and the universal and indeed necessary concealment of securities from a tax which would, if literally enforced, confiscate all or nearly all income of every safe investment.

What I have to say on the bearing of the federal income tax under the sixteenth amendment, yet to be ratified or disapproved by States represented here, will perhaps especially interest the Governors whose States have not yet acted on it but is on a subject important to all.

The dispatches show that prominent Congressmen are already preparing bills to raise one hundred millions of dollars a year of federal income taxes in anticipation of the ratification by the time the bills will be reached. If that amendment goes into effect, our consideration of any State income tax will be almost academic, for no party could hold power in any State if it should uphold a State income tax on top of a federal income tax of a hundred millions of dollars or more a year. Income taxes are bitterly opposed as inquisitorial and if used to collect in Wisconsin five or six millions of dollars for the United States and three or four millions more for the State, there will be an explosion and an upheaval in Wisconsin, and so in every State.

In Kentucky, the State revenues are about seven millions, the annual expenses over eight millions, the federal customs and internal revenue collections some millions more than the State's total revenues. On the \$100,000,000 basis Kentucky will pay from two to three millions of federal income tax besides some millions of customs and internal revenue, under the ratification brought about by a political party caucus resolution and voted on in the Legislature practically by acclamation without consideration or discussion of the most important change in our government since the Constitution was adopted. The Legislature would not have been willing to consider, much less have dared to levy, a State income tax of two to three millions to pay the deficit for which interest bearing State scrip, slow and progressively slow in payment, has been issued and is outstanding, of over two million one hundred thousand dollars, but it made a "joy ride" of giving the federal government power to levy it, and take it away to Washington, while the State income tax would be spent in the State and pay its debts and uphold its

honor and credit. This is one of the strange fruits of party politics and caucus government, that the Commonwealth of Kentucky, historically noted for its devotion to the Constitution of our fathers, the resolutions of '98 and States rights, should blindly fall in with the movement to revolutionize the Constitution hallowed by age and tradition and grant to the federal government the greatest encroachment on States rights and State revenues ever proposed in our history.

The ratification of this amendment will confer on Congress the power to enact an income tax on everyone's income and earnings, regulated at the will and pleasure of Congress, from large incomes to the smallest and will hinder, if not exclude all State governments, from raising any revenues by income tax, and add to the federal taxing power in customs duties and internal revenue taxes, this new and vast revenue producing tax, which is now an unquestionable right of the States. This amendment will raise increased federal revenues, when it seems to most people, the present federal powers, producing over a thousand millions of dollars a year are ample for every need of Congress, except in case of war or other great emergency, while the revenues of the States are, generally, not enough for their needs. The amendment does not limit the federal income tax to the emergencies in which Congress might need it.

The proposition began as a part of the war on the protective tariff, but it was introduced by the Republican administration and seconded by the Democrats and soon became a Democratic measure, though opposed by many thoughtful Democrats, not only as taking for the nation what it does not need and from the States what they do need, but also by many conscientiously devoted to State rights, as a new, and dangerous, encroachment of the national government on the States.

The amendment is in these words:

“Article XVI. The Congress shall have power to lay and collect taxes *on incomes*, from *whatever source derived*, without apportionment among the several States and without regard to any census or enumeration.”

Let me say, to show my point of view, that until as Governor I came to represent the interests of the State government, my

ideas were on the lines of thought of Hamilton and the policies of the Republican party, largely suggested by the conditions developed in the war for the Union, and the frequent inefficiency of the State governments in matters of quarantine, interstate commerce, trust regulations, and many other matters, and I was inclined to favor a strong centralized government. But when my work as Governor led to my making the State my chief care, I came to see more clearly the vital importance of home rule in the States and the need of holding fast to the wise check, of our dual system, on the federal government.

In view of the probable early ratification of the amendment, I hope that it will not tax your patience to give my understanding of the status of the amendment in Kentucky. As Governor, I received the official letter of the Secretary of State, transmitting it to Kentucky, before the session of the General Assembly. I need not take time now to refer to the records, but it will do to state the facts broadly, from recollection. The Hon. Ollie James, Congressman, now Senator-elect from Kentucky, got the caucus of the Democratic members of the Legislature to make the ratification, a party measure and, without the transmission by the Governor to the Legislature, of the official letter of the Secretary of State, or any official basis for legislative action, and without any power, it seems to me, to act on the matter, a resolution of ratification was prepared and passed both houses by acclamation, without consideration or any discussion, but the measure was so hastily drawn that it omitted from its copy of the amendment the words "on incomes," so that it read in the resolution as enrolled *and transmitted to the Governor* for approval, "The Congress shall have power to lay and collect taxes from whatever source derived," etc., and was not the resolution adopted by Congress and was therefore void and on that ground was returned to the House without approval. I did not defeat it by letting it stand as it was, but called the attention of several of the leading Democratic members to the omission and as the journals showed, when examined by the Attorney-General of Kentucky, Judge James Breathitt, at my request, a resolution was introduced "*to correct the enrollment*" of the resolution by inserting in it the omitted words, "on incomes," but at the time when this last resolution was adopted, *the resolution* so

ordered to be corrected *was on the Governor's table*, was never recalled, never in the possession of either house or enrollment committee and the enrollment never was corrected, but the resolution remained in the Governor's possession until long after the resolution to correct the enrollment was passed, and it was finally returned, uncorrected, with the disapproval of the Governor, and was in fact void, whether the disapproval was material or not; and instead of the resolution correcting the original resolution, another resolution of ratification, not then shown by the journal of either house, with the words "on incomes" inserted, came to the Governor and was not acted on by him. The legislative and executive records then showed the facts as I have set them out and did not show the introduction nor adoption of the resolution so transmitted as another resolution of ratification, while I still had on my desk the defective resolution and both were in my keeping, together. In ample time for its consideration, the official letter of the State Department and copy of the amendment was sent to the General Assembly for its consideration, with a brief special message and thereupon, as the legislative journals showed, a resolution of ratification based on the official papers passed the House but failed in the Senate. On this state of facts I believe that the Legislature of Kentucky has not in fact, as reported in the papers, ratified the amendment, but that is a matter for decision in another forum and may become immaterial by ratification by enough States, without Kentucky.

In preparing to send the amendment to the Legislature I wrote a message, but because of the precipitate action did not send it in, which I prefer to use at some length here, because it bears on the question here and was part of the work of the time and written for that purpose and not for this argument, on the States' need of the income tax and opposing the federal invasion of this great field of revenue. I quote from the paper:

"My own first impression was favorable to this measure to strengthen the hands of the general government in case of war or other emergency, but, as the amendment, as actually drawn . . . would enable Congress to lay any tax it pleased on incomes from salaries of State officials and from State, county and municipal bonds issued for governmental purposes, it seemed to

me that this might make it impossible for any State, county or municipality to borrow money necessary for governmental purposes at the lowest market rates and would at least add, to the interest which they would have to pay, some part of the income tax and at the same time would cut off from the State any practical benefit of the power to tax incomes when necessary for State purposes. It seemed to me the most serious encroachment on the rights of the States since the organization of our government and I delayed the transmission of the resolution in order to present it to the General Assembly with my views on it, but the matter was taken up without waiting for it to come through the channel which is proper, if not necessary, to give the General Assembly jurisdiction to consider it.

"It is not the province of the Governor and I do not wish in any way to hinder or delay the action of the General Assembly, but if it had been transmitted in the shape in which it was adopted, it might be treated as void and I think it my duty to point this out to the General Assembly so that the action will not be left in doubt.

"I trust that it will not be considered out of place for me to draw attention to the fact that this amendment . . . will give Congress power to add an enormous fund to the already very great expenses authorized amounting to more than a billion of dollars in one Congress . . . , in ordinary times as well as in cases of emergency. If the amendment had been limited to cases of emergency I should join all patriotic citizens in doing everything possible to give the government power to employ for the defense of our country, all the men and all the property, of all the country, including the incomes, but this amendment is not so written. If the incomes of the people of Kentucky are to be taxed, we all know that the State needs the money. . .

"Under section 89 of the Constitution of Kentucky every resolution, in which the concurrence of both Houses may be necessary with certain exceptions not material here, shall be presented to the Governor, and, before it shall take effect, be approved by him; or being disapproved, shall be re-passed by a majority of the members elected to both Houses. . .

"Neither the party platform in favor of an income tax, nor the party caucus have, as far as I can learn, given any thought



to the plain fact that this amendment subordinates to federal control that great attribute of the sovereignty of the State, the unimpairable power to borrow money. . .

"The Attorney-General . . . now holds that the corporation income tax includes income from government bonds. Of course, then he would hold that it would include every State, county and municipal bond.

"Who shall say to the State of Kentucky that she shall no longer have the power to issue tax exempted bonds? Do the members of the General Assembly, who can say it, wish it? Why should they surrender to any sovereignty this essential attribute of sovereignty?

"I see no difficulty in starting another proper amendment in place of this, giving Congress power to lay an income tax, but not on incomes 'from whatever source derived.' . .

"It is true that many believe that the power, if given, would not be exercised, but can we imagine the great men who framed the Constitution . . . inviting ratification of that Constitution on the ground that any powers which might be objectionable would not probably be exercised or would not be taken literally? The true question is whether this grant of enormous power to the federal Congress, the greatest grant since the original Constitution, should be surrendered to the United States or not.

"Senator Root said in a public address:

" 'The framework of our government aimed to preserve, at once, the strength and protection of a great national power and the blessing and the freedom and the *personal* independence of separate States. It aimed to do that by preserving in the Constitution the sovereign power of the separate States.'

"Mr. Justice Brewer in a public address at Milwaukee said:

" 'The power to tax, as John Marshall said, is the power to destroy. If once you give the *power* to the nation to tax *all* the incomes, you give them power to tax the States, not out of their existence, but out of their vitality.'

"The true question . . . is not whether a tax on incomes . . . is a desirable kind of tax to levy, but whether . . . we are willing to clothe . . . Congress with power to lay such a tax on interest on notes, loans and other securities, on rents of lands, salaries, profits of farms, factories, stores, earnings of all

men and women in whatever work or calling, and all other kinds of income.

“ . . . There might be no just objection to the taxing of incomes, although if we are prepared to tax them in Kentucky there would be a storm of objections, but the question is, whether we shall grant a new taxing power to the national government (when for ordinary purposes it already has too much) . . .

“The present amendment . . . clearly involves a grant to impose on the people of Kentucky a federal income tax unrestricted by the present requirement of apportionment. What other Constitutional safeguard have we against possible federal encroachment on the sovereignty of the States, than that which requires that direct taxes shall be apportioned among the States, and what will remain of those safeguards if we adopt this amendment?

“Hamilton himself asserted ‘the justness of the reasoning which requires that the individual States shall possess an independent and *uncontrollable* power to raise their own revenues for the supply of their own wants,’ and that, excepting only the duties on imports and exports, ‘they would retain that authority in the most absolute and unqualified sense,’ and ‘that an attempt on the part of the national government to abridge them in the exercise of it, would be a violent assumption of power.’ . .

“Are we ready . . . to change fundamentally the ‘framework of our government,’ ‘aimed to preserve the personal independence of our States?’

“In the Pollock case, 157 U. S., the Supreme Court said without dissent:

“ ‘The Constitution contemplates the independent exercise by the nation and the States, severally, of their Constitutional powers. As the States can not tax the powers, operation, or property of the United States . . . so it has been held that the United States have no power, under the Constitution, to tax either the *instrumentalities* or the property of a State . . . In *Collector v. Day* it was adjudged that Congress had no power, even by *an act taxing all incomes*, to levy a tax upon the salaries of judicial officers of a State . . . and the court met the argument that incomes from State securities could be taxed, even if

the securities could not be, by citing Marshall, C. J., in *Western v. City Council*, 2 Pet. 449, 468:

“ ‘The right to *tax the contract to any extent*, when made, must operate on the power to borrow, before it is exercised, and have a sensible influence on the contract. The extent of this power depends on the will of a distinct government. To any extent, however inconsiderable, it is a burden on the operations of the government, and may be carried to an extent which shall arrest them entirely.’ ”

“ ‘Could not this amendment give Congress power to tax not only private incomes, but city, county and State salaries, and if it does, can any one, who believes in our form of government and in upholding the power of the States just as earnestly as we uphold the power of the nation, consider it with favor? ”

“ ‘If this amendment shall be adopted, who can say, truly, that he knows it to be sure that the Supreme Court . . . will hold that when the people voted to clothe Congress with power to tax incomes ‘from whatever source derived’ they did not really mean to say ‘from *whatever* source derived,’ but meant to exclude such sources as had been held *before* the amendment to be exempt from federal taxation. and who can guarantee . . . that if Congress has the power it will not exercise it?’ ”

This part of this message is now materializing, when in anticipation of its ratification prominent Congressmen are preparing bills to raise one hundred millions income tax a year, with no war or emergency, Kentucky's share of which will be several millions of dollars, added to all the internal revenue and customs duties, when the State treasury is in default over twenty-one hundred thousand dollars, for which interest bearing State scrip has been issued and with present expenses and new appropriations for the early future including pensions to ex-confederate soldiers and widows, all of which will require regularly two millions of dollars a year above the total present revenues which are about seven millions a year.

But resuming, “Congress had already tried to tax incomes from the salaries of State officers and municipal bonds. If we now expressly confer the power to do so, do we not at least give the chance for, if not invite, its exercise? Can we be sure that it will not be persuasively argued that this amendment was

adopted for the purpose of giving the power which the Supreme Court refused . . . and this was one of the purposes of changing the foundation law of the government?

"I believe that the government ought to have the power to lay an income tax for war . . . and this need could be satisfied by preparing an amendment to give that power in such contingency only, but even then, unless the instrumentalities of State, county and municipal governments should be excluded, that power might destroy those governments to save the national government.

"Again . . . this amendment . . . does not require, but, it may be argued, excludes, by implication, if not directly, the further requirement of uniformity . . . required by the Constitution, only in cases of 'duties, imports and excise.' Thus it presents the anomaly of a federal power of taxation absolutely . . . opposed to the present principle of the Constitution, which requires that, in every instance, a federal tax shall be controlled either by the rule of apportionment or the rule of uniformity."

This paper quoted from a letter of Governor, now Justice Hughes, saying that he was heartily in favor of giving the federal government power to lay an income tax, without apportionment, but he was also impressed with the importance of maintaining State governments with their essential efficiency unimpaired, and on this ground he had opposed this amendment; the only action he could conscientiously take as State Governor; that of course, the words "from whatever source derived" would ultimately mean whatever the Supreme Court decides that they mean and it is possible the court may hold that they do not mean "from whatever source" but only from *some* sources, but certainly the words of the proposed amendment permit, if they do not require, the court to hold that they mean precisely what they say; that whatever may be the present implied restrictions upon the power of Congress these restrictions can be done away with by constitutional amendment; and we are not dealing with a statute, but with an amendment containing a grant of power in words which might be taken to indicate an intention to nullify all previous restrictions. If Congress really desires only the power that it should have, it is a very simple matter to frame an amendment which will be unambiguous or at least leave out

such all-inclusive words: that we do not know what the coming years may bring forth, nor what the attitude of the Supreme Court may be or may continue to be; but we do know the natural meaning of words, and appreciating the supreme importance of an amendment to the federal Constitution we ought to be able to express ourselves without doubt, in respect to a matter of fundamental concern to the States; that some insist that the doctrine of immunity of State instrumentalities is so well established that the comprehensive words of this amendment would not be given their literal meaning, while others insist that incomes on State instrumentalities, salaries and bonds should be taxed and they support this amendment because it will include them. . . . The question is not what the justices of the Supreme Court, nor "you or I," if sitting on that court, would decide upon this question of construction, but whether the State officers should favor ratification in this form. It certainly puts it in the power of Congress to assert, and of the Supreme Court at some future day, to hold that incomes derived from State and municipal securities are subject to federal taxation.

The fact that Governor Hughes is now a justice of the Supreme Court lends especial importance to his views in that letter.

I said further in that paper " . . . it seemed to me, by far, the most important act of this session and because, first in caucus and then in the General Assembly the resolution was passed by acclamation, I have fears that we have chanced to act, without thought, upon an extraordinary grant by the Commonwealth of Kentucky to the federal government of a very great extension of its power over the State . . . without any effort to consider what we were giving or what its effect would be.

"As Governor of this Commonwealth, I feel that it is my duty to the people not to have this extraordinary grant of power made in the name of the people of Kentucky, without at least enough discussion to cause the matter to be thought over by the people and bring out from them something to show their wishes, more convincing than a political party caucus resolution adopted without discussion or deliberation. The devotion of the people of Kentucky to the Constitution is so strong and repeated again and again from generation to generation, that it seems to me that the General Assembly, as the representatives of the people, and

the Governor . . . have no right to treat lightly this traditional and settled view of our people on our plan of government.

"If this amendment, with its enormous grant of power over this great field of revenue, is ratified, who can feel sure that we shall not soon have Congress appropriating a billion and a quarter of dollars instead of a billion dollars? It seems to me that the danger of that is greater than any present inconvenience from lack of power in Congress to levy more taxes upon the people for the federal government, added to the present enormous taxation. . . The federal government is now collecting from the people of Kentucky more money than the State collects for its government.

"It is a close question. It may be that the vote of the State of Kentucky will decide whether this great power over the State and its rights shall be granted to the federal government, and that is the greatest reason for knowing what we are doing before we vote. . . It is not impossible that the federal government will take from Kentucky each year in taxes on incomes a million or more dollars . . . I merely use this sum for illustration. . .

"It is in your power to levy a State income tax which will pay the deficit and new appropriations. If you are willing to permit a tax on Kentucky incomes to be imposed by the federal government for its purposes, to be taken out of the State when it already has enough, why shall you not at once levy a Kentucky income tax and keep and use our millions of dollars at home?

"Will it be any harder on our people for the State to take it, which needs it, than to let the federal government take it, which does not need it, and then for you to have to raise other taxes if we do not get this, and thus have our taxes greatly increased with the federal income tax of millions added to that?

"Shall you vote to let the federal government take an income tax from Kentucky and refuse our own State government, the legislative, judicial and executive, and the creditors of the Commonwealth the same tax when they need it? Justice as well as charity begins at home, and we ought to pay our debts and support our public institutions properly before we make lavish and revolutionary grants of new and extraordinary powers of taxa-

tion to the federal government. I trust that if this General Assembly is in the humor to permit any income tax to be levied, it will use its power for the benefit of the State government and not for the federal government.

"If it be found that a state income tax will excite a storm of protest, how much greater will be the anger and distress of our people, to learn, by and by, that we have given the federal government a new power, not intended in the Constitution, to collect a federal income tax of millions of dollars annually, when it does not need it, and already collects too much, and take it out of the State and use it for national purposes, when we need it vitally and have not enough and we could keep and spend it in Kentucky for State purposes, for our own home benefit. Shall we object to raising a million dollars a year of new taxes of some kind for our institutions, salaries, public improvements and the State debts and vote to let the federal government take from us more than two millions a year with no appreciable benefit and no relief to Kentucky, certainly none comparable to what we would have from a State tax.

"We do not even *consider* adding a few cents to our present tax rates to pay our debts and appropriations in excess of our revenues. Shall we give, without debate or thought even, a chance to Congress to take millions more from us when we refuse to levy any form of tax to pay our debts?

" . . . The need of Kentucky is actual and present. The only excuse for a federal income tax is the possibility that in the future the federal government may need it. . . It would be my inclination, whenever this resolution shall be adopted after such consideration and discussion as shall show that it was the judgment of the representatives of the people of Kentucky . . ., to approve it.

"I shall be very glad indeed to attend or follow closely any discussion and consideration of this grant of power . . . to the federal government, which shall throw further light on the question and help me to know what is best for Kentucky and truest to the convictions and traditions of its people and the unbroken history of the State in regard to true State's rights.

"The income tax was to the popular mind a question simply of taxing incomes and shifting part of the tax burden from those

not subject to income tax to a smaller number who would be."

Let me add the belief that such hopes are never realized, that it never works out that way, that new taxes do not wipe out old taxes, but simply add new burdens and that the new federal income tax must be and will be necessarily charged by the landlords to the tenants, by lenders and bondholders to borrowers and by them added to the expenses which all the people must pay for all that they buy.

All of our States are in process of evolution from the general property tax system to the same percentage on the value of all property whether productive or not, whether the assessors can find it to assess or not, whether the tax payer puts it on the lists sworn to and returned, or not; which was intended to be equal, but is notoriously unequal and unjust and results in oppression and dishonest evasion of just burdens with the help of men expert, not only to save from injustice, but to evade justice in corruption of assessors and deputies seeking election, and in widespread and general corruption of our people, the injustice furnishing a powerful motive even to honest people, and a chance to the dishonest to shift, from themselves to others, the cost of the protection and benefits of the government in which the people join for the welfare of all, for the protection of the executive, judicial and legislative branches of the nation, States, counties and municipalities, for schools, roads, sewerage, water, lights, sanitary and other cooperative measures for the general welfare, the taxes for all of which, if justly assessed, collected and honestly expended, produce more of actual value for the comfort, happiness, success and prosperity of every person everywhere, at less expense to each, than any other money that any one pays out, and without which expense the natural advantages of our people in character, intelligence, education and civilization and the wealth of our country, its soils, minerals, timber, waters and water powers, of the ever growing discoveries of people and science, and all that we enjoy, cannot be held or enjoyed, but will be rendered less useful and valuable.

"Government would have no excuse for existing, were it not that the community can protect and serve the individual, at far less and far better, than he can himself."



The general property tax, in force in most of our country, was well enough when the country was new and the classes of property few and easily assessed, and there were no corporations, millionaires, trusts, railroads, electric lines, telegraphs, telephones or automobiles, but every condition of life and work has changed and the old revenue systems have become unfair and oppressive, wasting many millions of dollars that ought to be used directly for the good of all.

All moneys paid as each person's share of the cost of the benefits of the government in which all are partners will be paid out of the moneys that each collects for work, rents, income or sales. Directly or indirectly every person who labors, even if he owns no assessed property, pays taxes by amounts included in the prices of food, clothing, fuel, water, light, rent and everything he pays for.

In the general property tax system, even lands are unequally valued in the same city, town or precinct and there is gross inequality between counties in returns for State taxation, requiring boards of equalization, and everywhere there is unfairness. Men of great wealth and especially of great incomes pay a smaller proportion, relatively, of taxes than the poorest, and the present system constantly tends to make the rich richer and the poor poorer. Farm property is assessed at sixty-five to seventy-five per cent of its fair value, while merchandise and factory plants are assessed often at less than thirty per cent of such value, and in Kentucky, and generally, the percentage of securities and other personal property assessed for taxation does not include one million in twenty of the actual value of such property, and in fact it cannot include it under present conditions. On a hundred thousand dollars invested in safe securities producing four or five thousand dollars a year, at four or five per cent, when the general property tax is, for example, State fifty cents on one hundred dollars, or one-half of one per cent, county one-half of one per cent and city one and three-fourths to three per cent, if this property is returned and assessed, the owner must pay 2.75% to 4%, or \$2,750 to \$4,000 out of the \$4,000 to \$5,000 annual income, leaving on the whole income from nothing to \$2,250 per year of what is a large fortune for people generally.

And the same condition is presented to every person who buys safe securities; estates must be shown of record in the courts, while those who do not have their holdings thus made public records, must lose all or the larger part of their income or conceal their holdings, which is done generally, indeed almost universally, where this system is in force.

Bank stocks are fully assessed, because the sworn statements are public records, but there is no such guide to stocks of merchants or manufacturers and in such cases the assessment becomes a farce. The assessment is the merest guess work, even when the tax payer makes a reasonable effort to make his return right. The tax commissions have been trying to arrive at a system which would avoid these evils and still impose a just measure of taxation. The International Tax Conference attended by many students of taxation representing different States and Canadian Provinces, unanimously resolved, at its annual meeting in Milwaukee, in 1910, that the personal property tax was a failure, due not entirely to poor administration, but to difficulties inherent in the system itself, and among all the students and writers on this subject there is unanimity of judgment, that the personal property tax and the general property tax are unjust and inequitable and bear unfairly and oppressively upon the less prosperous members of society.

As a result of the agitation of these questions, constitutional amendments have been adopted in some States authorizing income tax laws and classification of taxes, setting apart classes of taxes for the State and other classes for local purposes, and dividing the income tax, part to the State, a certain per cent, another part to the county and another to the towns, cities and villages, the State doing all the service and bearing all expenses of the collection for the per cent allotted to it, the effort being to remove from the local tax roll things which have been hardest to assess and to simplify work for the assessor.

Instead of tax on moneys and credits, the tax is laid on the income from moneys and credits which have been the worst assessed of all property, because only a small fraction of the moneys and credits have been assessed at all. The excessive proportion of the tax, on the principal of a safe security, to the income from it, running all the way from one-third to nearly the whole

income, not only appears an oppression to the owner, but does not appeal to the sense of justice of the community and the assessor feels that he is an oppressor and it has been proved by trial that if the rate is made reasonable upon property of this kind, a great deal more revenue is secured than if an exorbitant rate is charged. In one city under the general property tax, there was placed upon the assessment roll only six million dollars of personal property for taxation, which was a very small percentage of the total wealth of that kind in the city, but when the Legislature authorized a rate of thirty cents on the one hundred dollars, they have increased the assessment of such credits from six million dollars to one hundred and sixty million dollars and get a great deal more revenue under the low rate than under the high rate, and it is certain that considerably more tax can be collected by taking a reasonable proportion of the income, than by the general property tax on the moneys and credits, with far better results in money and in morals.

The Canadian Provinces have largely abandoned the personal property tax. Nearly every country in Europe, I am advised, has gone through this same experience and abandoned the personal property tax and as a rule substituted the income tax and in other countries, while there is some tax on personal property, the income tax is one of the principal sources of revenue. It appears that no country in Europe has abandoned the income tax after once having adopted it. Every country in western Europe, except France, has the income tax, and there it has been adopted in the lower house for fifteen years, but failed in the upper house controlled by the old nobility. It is part of the policy of England and of long standing. The Committee of Parliament, in 1905, after a thorough investigation, reported, that no drastic alteration in the administration of the income tax was needed, that it appeared on the whole to be levied with a minimum of friction and a maximum of result.

The objection that the income tax is inquisitorial and the people will not stand it has little weight where, under the present tax laws, the assessor delivers to every one a printed list of articles covering every known kind of property that could be thought of, in which every person is required by law to list, at a fair value, everything he owns under each item and then to sign and

swear to it and return it to the assessor, and if the assessor is not satisfied and raises the rate, the tax payer must go before the board and make a full statement under oath as to all his personal property and he can be subjected to inquisition under oath about everything he owns.

The inquiries of the income tax are in no way more inquisitorial than those under the present system, but are really less oppressive, because the tax does not destroy the value of safe investments, but is an inducement to every tax payer to answer more freely and candidly than under the old law and will result in really less complaints and less feeling of inequality and injustice.

I have been interested in the memorandum of Governor McGovern in signing the Wisconsin income tax law. He notes that practically the whole revenue above the cost of administration will go to the localities, to pave streets, build roads and bridges, maintain hospitals and jails, provide fire and police protection and support the courts. None of the net profits will be sent to the State capitol or Washington, but all will be expended at home. He does not believe that the income tax should be administered by the national government rather than by the State and asks whether the people really wish to be taxed further to support the government at Washington in preference to helping the cities, towns and villages where they live. He insists that tax laws should be so framed as to secure revenue where it is most needed; that because personal property taxation and the burden on real estate is ever increasing, the first need is improvement in local taxation, which is secured by the income tax, which comes to the people as a relief rather than a burden, as a substitute for something that has failed, instead of an additional tax; that it will help rather than hurt business and industry and will not drive capital from the State; that the expense of local government must be borne somehow by the people of each locality out of their resources. It is now raised by taxes on land and personal property. Under the new law, it will be paid in part by taxation of income. With the abolition of the personal property tax and a reduction in the tax on real estate, the total amount of local taxes will only be more generally and equitably distributed, so there will be no reason for anyone, with money to invest, to hesitate

about coming or to think of leaving, on the contrary this tax law is to encourage industry and attract capital.

This plan of adjusting public burdens according to ability to pay has been in successful operation for many years in Switzerland, Austria, Sweden, Italy, France, Norway, Denmark, Holland and the German States, and it is believed that at the present time, with the quickened public conscience, this law, while not wholly free from defects, will prove a wise and prudent beginning in the work of devising an equitable system of taxation.

In conclusion, the federal government has in the customs and internal revenue taxes, the least felt, the easiest collected and the fairest tax measures known in governmental practice. The only tax of like character left for State, county and municipal governments is the income tax and they need it.

The income tax would do successfully what the personal property tax is meant to, but cannot do.

Our experience, with every Congress of all parties, is that they will always collect and spend all they can and dare, and as the last House of Representatives voted appropriations in excess of a billion of dollars and some millions more than any previous House, it is reasonable to expect that the next House will make still greater appropriations, if it can raise new revenues from incomes, and will collect just as much from customs as usual, simply changing the basis in some cases from the protective plan, and the same internal revenues and the income tax besides.

The income tax is the last and only revenue producing measure which is left for home governments and it is the last revenue producing States' right left to the States, and as there is no hope of the federal government surrendering any customs or internal revenues to the States, but on the contrary, the federal internal revenue licenses on distillers, liquor dealers and tobacco usurp a vital part of immense revenues peculiarly due to the State which bears all of the harm and expense arising from their business, it is vitally important for the States to have the tax.

If the United States invades the States income tax field, it will go far to defeat all hope of remodelling the general property tax system and the general property tax. The income tax takes a percentage on incomes—the personal property tax, paid literally,

takes the whole or most of the income. The personal property tax and federal income tax together would take all the income of all investments, except in lands for farming, and that would tend to set everybody to farming, while the destruction of investments would leave neither capitalists nor employers to buy the farm products.

The federal income tax will tend to expose those subject to personal property tax and force them to lose practically all income on investments in safe securities and thus hamper future investments in securities and arrest, if not destroy, all enterprises depending on such investments.

For these reasons I oppose the federal income tax amendment and favor the State income tax. (Applause.)

CHAIRMAN DIX—We have heard these two interesting papers on the subject which has interested and annoyed people from the beginning of time. In the discussion that will now ensue, I trust that each Governor will confine himself to the five minutes limit which has been suggested, in order that all may have an equal opportunity of speaking on this subject.

GOVERNOR MCGOVERN—There is a feeling among the members of the Conference that we are behind the schedule as far as the presentation and discussion of the papers are concerned, and it has been suggested that we listen to the papers on the other subject that was set for today, "The Development of Inland Waterways," and then discuss both subjects during the time remaining. I move therefore that the papers on the subject "The Development of Inland Waterways" be presented, and that the subjects "A State Income Tax" and "The Development of Inland Waterways" be then discussed.

The motion was duly seconded.

CHAIRMAN DIX—It is moved and seconded that the papers on "Inland Waterways" be now presented and that the discussion of the subjects "A State Income Tax" and "The Development of Inland Waterways" be discussed afterwards. Those in favor of this motion will signify it by saying aye; those opposed, no. The motion was duly carried.

CHAIRMAN DIX—Gov. Eugene N. Foss will now read his paper on "The Development of Inland Waterways."

## "THE DEVELOPMENT OF INLAND WATERWAYS."

GOVERNOR EUGENE N. FOSS OF MASSACHUSETTS.

## INTRODUCTION.

Mr. Chairman, Governors, and Ladies and Gentlemen:

I have asked to have the subject of our inland waterways brought officially before this Conference because I am satisfied that to a proper settlement of the transportation problems of this country the *concerted action* of the States is absolutely necessary.

## CONGRESS HAS FAILED.

We need not review the repeated failures of successive *national* administrations to provide constructive plans for the improvement of our transportation system as a unit.

## INDEPENDENT STATE ACTION HAS FAILED.

If, on the other hand, we review the improvements which have been made by the individual *States acting independently*, we shall not find any substantial progress toward an effective general system.

The history of American waterways shows that State authority has failed, and that the opportunities of effective federal administration have been neglected.

The result has been that the waterways of the United States have never been developed as a system upon any national scale, but have been improved principally through the efforts of Congressmen to get a share of the "Rivers and Harbors" appropriations for their respective districts, and the efforts of those districts and of the States, independently of federal aid, to help themselves.

But I do not believe that the situation is hopeless. The ground work for cooperation is already laid. Only concerted action upon a comprehensive plan is now wanting.

## CONCERTED STATE ACTION IS NECESSARY.

I am firmly convinced that the development of our inland waterways can be accomplished through the concerted action of

the States affected; brought about not only by their own enterprise and the expenditure of State funds, but to *an even greater degree* through their united power in forcing from Congress an intelligent and broad-minded study of the whole situation.

As soon as the American people realize that it is directly counter to their own good to leave this important subject as the chief political perquisite of Representatives in Congress they will bring about an end of this method of handling the question; and it is in every way proper that such concerted action should be taken, for the country geographically is *a unit* with respect to its waterways.

#### UNITY OF THE UNITED STATES WATERWAY SYSTEM.

The United States is cut in two by the Mississippi River, which thus forms a trunk line, as you may say, of water communication from north to south.

Along the northern border we have the Great Lakes, making a most effective commercial frontier which unites us with Canada commercially while it divides us only in a territorial sense.

This chain of lakes (giving us a substantially east-and-west communication) forms, in conjunction with the Mississippi River, a remarkable waterway which has potentially no equal on earth, with a southern outlet for practically the whole of the middle section of our country and for eastern Canada as well.

This tremendous natural water system extends uninterruptedly to the Panama Canal, and the completion of that canal will give us a seaboard in one unbroken line from the cities of Puget Sound to Eastport, Maine.

These, broadly speaking, are the great waterway projects which form the framework of our water-transportation system and to which the concerted attention of the several States should be given.

#### COOPERATION OF VARIOUS PUBLIC BODIES.

The Governors of the various States have a splendid opportunity to impress upon their people the importance of realizing this commercial unity, and a concerted public sentiment must be aroused which will make it impossible for any private or special interest to secure from the federal government any appropriation



out of harmony with the best general development of our commercial waterways, and which will compel the Congress to provide for a uniform and businesslike development of these natural resources.

I urge upon the Conference of Governors the imperative need of arousing and cooperating with this public sentiment as the only means of placing before the Congress a program of waterway development which will have public sentiment behind it and from which every vestige of special or selfish interest shall be eliminated.

In this work of co-ordinating public sentiment, and compelling the attention of Congress, the Governors of the several States will find splendid cooperation in several public bodies which are already organized and hard at work on this line of progress.

The great River and Harbor Congress now in session in Washington is probably the most notable of these bodies.

Then there is the Atlantic Deeper Waterways Association and the Lakes-to-the-Gulf Waterway Association, and the various public bodies which are concerned with the conservation of our natural resources.

All of these groups of citizens and officials are in a position to do splendid work along the lines here indicated, and they are doing it with a will.

#### INTRA-STATE ACTION ALSO NEEDED.

Nevertheless, even with the most effective action which Congress can take, the responsibility will still rest in some degree upon the individual States, and they must plan and construct such local canals and subsidiary water channels as the general waterway development of the country may demand.

The task of the Governors is to co-ordinate the action of the several States between themselves and to effect the still higher co-ordination of this uniform work with the work of Congress.

#### MASSACHUSETTS AS AN EXAMPLE.

I am proud to say that Massachusetts has to a great degree recognized the failure of the federal government to meet this crisis and has jumped into the breach with an appropriation of nine million dollars for the development of the port of Boston.

The Commonwealth is doing this as a matter of self-preservation, and the act is a wonderful expression of the public spirit and enterprise of the people of Massachusetts.

Massachusetts not only realizes that she must do her part (without waiting for Congress) in maintaining and improving her commercial standing, but she is especially resolved that the opening of the Panama Canal shall find her ready to do business with the rest of the world.

We have not only appropriated nine million dollars for the development of the port of Boston, but we are hard at work upon the problems presented by the present undeveloped condition of our principal rivers.

Our State Commissioners are cooperating with the Commissioners of Connecticut in a project for the commercial development of the Connecticut River.

This river, which is of splendid potential importance, can be dredged at least as far north as Springfield, and perhaps Holyoke, for ships suited to navigation in the Sound and along the Atlantic coast.

It can be furthermore dredged for smaller vessels, and reinforced by canals, to furnish an effective outlet for the western half of New England, opening up the interior of that section in a wonderful degree to water traffic.

Railroad advocates are accustomed to jeer at the development of this river as a visionary project, forgetting that Europe has utilized much smaller streams, and has channeled them for from fifty to one hundred miles inland, and built upon their banks some of the greatest seaports of the world, at distances as far from the seaboard as northern Massachusetts is from Long Island Sound.

(I shall take up more in detail later on the discussion of these great inland seaports of Europe.)

Furthermore, we are bent upon the commercial development of our other principal rivers, such as the Taunton and the Merrimac.

The Taunton River penetrates one of the most important industrial sections of our State, and we propose to make it effective as a means of cheaper transportation.

We are at work on the development of the Merrimac River, planning its commercial development at least to Lowell, and

hoping that New Hampshire will cooperate with us to make it a commercial waterway as far north as Nashua, and perhaps Concord.

#### THE CAPE COD CANAL.

We are also recognizing now as never before the importance of digging canals to supplement the natural waterways of the State.

Under private auspices a canal is now being dug across the neck of Cape Cod, and this splendid private enterprise has enabled the State to concentrate its own resources upon our harbor and river development.

The project for a Cape Cod canal was first taken up in the earliest days of the colony and abandoned.

New York, however, had built the Erie Canal, and we now know that it was that canal, small and imperfect as it was, which made New York the Empire State.

We are realizing that if our ancestors had dug the Cape Cod Canal when the Erie Canal was built, Massachusetts might never have lost her commercial supremacy.

Cape Cod has undoubtedly been a serious physical barrier to the maritime development of Massachusetts.

At least 2,000 vessels have been wrecked in the Nantucket Shoals alone, and hundreds of sailors have perished in these dangerous regions.

In spite of this difficulty there is at the present time an annual movement of 25,000,000 tons of traffic around Cape Cod and 500,000 passengers.

The Cape Cod Canal is estimated to represent an expenditure of \$6,000,000.

But if only half of this total traffic passes through the canal, a substantial return will be made on the investment.

This is to be a sea level canal, with only eight miles of excavation, the entire length of waterway being thirteen miles and the depth at low water twenty-five feet.

It brings New York and Boston 66 miles nearer than they were before, by water.

Surely a project of this kind, with its wonderful possibilities of shortening distance and cheapening and safeguarding mari-

time traffic, ought not to have been left to twentieth century enterprise.

It ought to have been consummated a hundred years ago.

Another lesson that we are learning in Massachusetts is very significant in connection with our pending waterway enterprises.

We are realizing now that if we had concentrated at an earlier date upon the development of our waterways, we should not have lost to the west and to Canada many of our so-called heavy industries,—industries in which the cost of the transportation of raw materials is a serious factor.

One by one these great industries are moving westward and northward where transportation, particularly by water, is cheap and ample.

We are determined that in the future the industries of New England shall have their raw materials on practically as favorable a basis as any other section; and we thus hope to overcome the handicap which one hundred years of short-sighted and narrow-minded policy has fastened upon us.

#### TRANSPORTATION CRISIS IN UNITED STATES.

I think I am speaking conservatively when I say that we are standing at the critical point of American history in regard to our transportation.

The key to the situation undoubtedly lies in the development of our waterways.

Let us see why.

For fifty years the financial and business interests of the country have concentrated the greater part of their energies on the construction and extension of our railroad service.

The United States has, therefore, become wonderfully well equipped with trunk railroad lines and local railroad facilities.

We have gone to an extreme in this direction, and have practically surrendered our own transportation interests into the hands of the railroads.

The country has gone railroad-mad.

One hundred years ago this country was digging canals in earnest; 4,000 miles of them were constructed; then came the era of the railroad, and the canals and waterways were allowed to go to ruin.

Also, during our whole history, we have spent but 500 millions on our rivers and harbors, as against possibly 18,000 millions on our railroads.

Meanwhile France, for example, has equalized her expenditures, putting 750 millions into harbors and waterways, and 700 millions into railroads.

This policy, taken in connection with our peculiar tariff system, has resulted in stunting our foreign commerce, and in impeding the development of our coastwise shipping.

It has resulted in subordinating one of the most vital considerations of American life, to the private needs of the railroads.

OUR ONE-SIDED POLICY HAS RESULTED IN EXCESSIVE FREIGHT RATES.

Consequently, freight rates have reached a point many times as high as they would be if an effective water competition existed, and *the cost of freight is one of the principal factors entering into the cost of living.*

We are at this moment wrestling with the problems of railroad regulation.

We are in debate as between the advantages of private and public railroad ownership.

The problems are vexatious and deep-seated.

We are only just now learning how to handle them.

And it is remarkable that throughout all this discussion and public agitation, more attention is not centered on waterway development as the one most effective means of meeting the railroad situation, and compelling a fair railroad rate.

WATER-BORNE COMMERCE THE NATURAL COMPETITOR OF RAILROADS.

Water traffic is the cheapest known means of transportation.

It is so cheap that it forms the most effective natural competition for the railroads.

It is remarkable that the railroad systems of America have been so successful in choking off water competition, in buying up our water terminals and leaving them unused, and in preventing proper recognition by Congress of our waterways as the natural avenues of commerce.

I am told that the average charge per ton-mile for freight on the American railroads is 7½ mills.

Contrast this figure with the average per ton-mile for freight on the Great Lakes, which is eight-tenths of a mill, or less than one-ninth the average charge for the same service by the railroads.

But the most significant comparison has yet to be given.

It is this: During the season when the Great Lakes and their tributary channels are freely open to navigation, the railroads, which compete with the Great Lakes transportation service, reduce their rates to one and eight-tenths mills per ton-mile on the average, or approximately one-quarter of their usual charge.

And yet, instead of maintaining this natural competition between waterways and railroads as the most effective possible stimulus to industry, we have abandoned most of our earlier waterway projects,—not only abandoned them, but permitted their confiscation by the railroads.

And where the water traffic itself is not dominated by the railroad, we have permitted the railroads to utilize the old canal banks for their own right of way—a remarkably effective means of choking off any attempted restoration of the canal project itself!

#### EUROPEAN EXAMPLE.

European countries have uniformly developed their waterways as a means of assuring commercial prosperity and rapid growth, and they have done it with a truly prophetic instinct, in anticipation of the necessity.

A generation ago Belgium, with an area less than Massachusetts and Connecticut, had over 1,000 miles of internal waterways.

On this system of canals she has spent over 80 million dollars.

In Belgium and in Holland the ocean is brought to every city, and as a result these little countries have become world powers in commerce and manufactures.

A ton of raw material comes to them 1,000 miles for \$1.

The British Isles have 4,000 miles of canals, and an equal length of improved waterways.

Germany has over 10,000 miles of internal waterways, much of which represents engineering work, and her policy makes a highway of every stream that has water enough to fill a canal.

She makes immense appropriations for the extension of these waterways.

Austria and Hungary have spent fully 200 million on rivers and canals.

Even China has such a wonderful system of shallow canals that almost every town can ship to the ocean by water.

WATERWAY DEVELOPMENT PREVENTS RAILROAD MONOPOLY BUT  
ENLARGES THE SCOPE OF RAILROAD SERVICE.

Again, a remarkable illustration of the fact that the railroads and waterways while natural competitors are of mutual benefit is found in the experience of Europe.

When the river Elbe was adapted to canal service the river traffic increased fivefold and yet the railroads which had to compete with the river were not ruined, but paid greater dividends than ever before.

The river Main has been channeled and, while there is a railroad on each side of it and the river traffic has grown more than tenfold in ten years, yet the railroad trade has not suffered a decline, but has increased.

The Northern Railway of France competes with numerous canals.

Surely here we would expect to find injury done if anywhere to the railroads, *but on the contrary this railway is said to have been the most prosperous of any in France.*

It has prospered when other railroad systems have been in trouble.

London is well served by railroads,—more intimately related to the rest of the country by railroad service than most of the cities of America.

Nevertheless, London has not hesitated to invest \$186,000,000 in the development of her port and the dredging of the Thames to make that port effective for modern shipping.

Liverpool has spent \$125,000,000; Manchester,—practically an inland city,—has made herself a seaport by the investment of \$90,000,000.

Glasgow has invested \$40,000,000; Newcastle, \$80,000,000; Bristol, \$30,000,000; Hamburg, \$100,000,000; Antwerp, \$45,000,000.

All this expenditure represents the most effective possible means of checking the aggrandizement of the railroads or the inflation of freight rates under railroad control.

No one, however, can say that this development has wrought harm to the railroads of Europe, whether owned privately or by the government.

On the contrary, European waterway development has proceeded, so to speak, hand in hand with the railroad development; and each has been made possible and has profited by the development of the other.

A trunk line of railroad can to a certain extent defy authority and maintain a high rate of freight.

But a canal is essentially a public way.

Lines of towboats and barges can move upon a canal or river in direct competition with each other; monopoly can be prevented; and the average freight rate via waterways is therefore kept automatically at the lowest figure consistent with maintaining the service.

It is for these very reasons that our waterway development must proceed under the public auspices of State and nation and must be pushed as a work of public exigency, just as the Panama Canal has been pushed, irrespective of any railroad influence.

Still, the railroads are dependent solely upon the prosperity of the district which they serve, and this prosperity increases in proportion as we open up cheap transportation for low-grade freights.

This we can only do with the help of the canal.

We are still congesting our railroads with a mass of cheap, low-grade freights which they cannot carry economically.

We cannot get satisfactory service from the railroads for the shipment of our factory *products* so long as the roads are tied up with undelivered shipments of coal, pig iron and other raw materials.

The European practice is to move these low-grade freights by canal and river.

The railroads freed from this low-grade business, at the same time build up the general business interests which they serve and increase the mass of high-grade freights which they must still



continue to carry and which they always will carry, no matter how many canals are built.

The public servants of France and Germany have recognized this basic difference between the railroad and the canal and have seen that the proper development of both together would be mutually beneficial.

Our railroads have been afraid of canal development from the most narrow-minded reasons, and their successful activity in defeating our canal projects have reacted disastrously upon themselves.

EUROPEAN PORTS ARE INLAND, CONNECTED WITH THE SEA BY  
IMPROVED CHANNELS.

The secret of the success of the great commercial countries of Europe lies in their remarkable foresight, in the way in which they have prepared for expanding trade and commerce, and in the location of their great commercial centers.

Practically all of the great seaports of Europe have been equipped with modern transportation facilities far in advance of their actual requirements, in anticipation of growth.

With us the typical commercial city is located either directly on the seaboard or some natural inland waterway.

Europe has built her seaports inland and connected them with the sea by dredging and excavation.

For example, Hamburg is seventy-six miles inland and has been made available as a seaport only by the expenditure of a hundred million dollars.

But by reason of her inland location, she is completely surrounded by a vast producing territory; and the genius of the German nation has foreseen the strategic advantage of bringing the ocean to the interior of her great industrial sections.

In comparison, New York and Boston at best have only fifty per cent territorial efficiency, for they face directly on the ocean; and even Chicago pays heavily for her location on the shore of Lake Michigan in the fact that it shuts off all industrial environment on the northeast.

Antwerp is another of the great seaports of Europe, but she is located fifty-five miles from the ocean.

She still suffers from the natural handicap of the tide.

It is not often that a ship can make the entire journey up to Antwerp in one turn of the tide.

But Antwerp draws from a productive territory which completely encircles her.

Manchester, London and Glasgow are equally significant examples of the European idea of commerce.

These cities are all far inland, Manchester being sixty\* miles from the sea and shut off absolutely by nature from any maritime connection.

Glasgow is situated sixty miles inland from the Irish Sea, and has been made a great seaport only by dredging the river, which presented in the beginning a more serious obstacle than most of our American rivers to commercial development.

The River Clyde was originally a river of such small size that it could be forded by man or beast at many points.

I need not multiply these examples.

Great Britain and the commercial countries of the European continent have become tremendous powers in the commercial world only through their public spirit and foresight in providing themselves with maritime facilities, either natural or artificial, or both, as might be the case.

The main reason for the commercial supremacy of these countries is in the fact that they have already met and solved the transportation problems which we are still facing.

They went through their formative commercial period long before we did; they wrestled with the problems of municipal, private or State ownership of waterways and railroads; and while we are still under the domination of our railroad monopolies, other countries have found the way out, even to the extent of digging a way through to the ocean at an enormous expense.

We must therefore look to the older communities of Europe and frankly copy their example; and by doing this we shall find that practically all the commercial centers of Europe have grown through the joint and parallel development of marine and rail transportation.

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\* Distance measured along the available water levels, out to natural ocean channels.

## PANAMA; THE FIRST STEP IN OUR NEW POLICY.

By digging the Panama Canal we have struck at the heart of the problem.

We are obtaining for ourselves by concerted public action the type of transportation which is potentially many times cheaper than railroad transportation, and Congress by the sections of the Panama Canal Act with respect to the ownership of steamships by railroads, has taken effective action to make this potential value real.

We are thus beginning to see the utility of water-borne transportation as a natural means of controlling railroad monopoly.

## THE LAKES-TO-THE-GULF PROJECT.

The Panama Canal being an assured fact, the most important remaining projects now on foot for the reconstruction of American commercial supremacy are the Lakes-to-the-Gulf waterway, the Atlantic Deeper Waterways project, and the restoration of the Erie Canal to meet the needs of modern commerce.

While I cannot undertake the discussion in detail of all these projects, I wish to refer briefly to the Lakes-to-the-Gulf enterprise as the one which in the largest sense will form the backbone of our future commercial development.

The distance from Chicago to the Gulf of Mexico is slightly in excess of sixteen hundred miles and the connecting link formed by the Chicago River and the Chicago ship canal is only thirty-eight miles long.

The remaining distance is covered by existing natural waterways which need only to be channeled and improved.

Of this total distance of 1,659 miles, the entire route is now open, I understand, for vessels drawing  $4\frac{1}{2}$  feet.

For over three-fourths of the way, *i. e.*, from the Gulf up to St. Louis, vessels of eight feet draft are accommodated.

To complete a modern fourteen-foot channel from the southern end of the artificial Chicago ship channel down to the Gulf is estimated to involve an expenditure of \$150,000,000; and the broadening of the Chicago River and ship canal is estimated will cost \$100,000,000.

By this development we shall have a fourteen-foot channel connecting the Lakes to the Gulf of Mexico at a total expenditure of \$250,000,000, with an estimated annual maintenance charge of possibly \$10,000,000.

Even if only the territory immediately tributary to the Mississippi River were to be benefited, nobody could dispute the commercial importance of this scheme.

But, in fact, there are many large and important rivers tributary to this great waterway which feed an area comprising the greater part of our industrially developed continental territory.

This backbone once constructed, the laterals of the system will quickly follow, and the existing rivers will be dredged and the necessary east and west canal channels will be excavated. The diversion of the course of rivers for irrigation purposes shows what may be done in this respect.

The only argument that I have ever heard advanced against this project rested on the fact that we could build a north and south railroad from Chicago down to New Orleans at a slightly lower cost and double track it,—the statesman in question sagely arguing that we could give the unexpended difference to public charity!

The absurd contention that a double-track railroad from Chicago to New Orleans would serve as economically and satisfactorily as a vast river system with practically unlimited carrying capacity need not be refuted before this audience.

Some years ago a project was brought up for the construction of a canal which should connect Pittsburg with the Great Lakes, but it went by the board, and in place of it the railroads interested in the steel and iron industries constructed railroad outlets for the Pittsburg district at enormous cost.

I think it should now be evident that if the steel industry had provided itself with a waterway outlet to the Lakes instead of spending its money on the railroads, Pittsburg might have maintained its old industrial supremacy.

Its freight rates on raw materials would have been reduced to perhaps one-tenth of their present amount, and the industries, which by reason of this high cost of freight are now moving northward and westward and even into Canada, might have been retained in Pittsburg indefinitely.

Cheap rates on low-grade freights are the basis of industrial success.

#### THE ERIE CANAL.

The Erie Canal is a project to which the attention of New York State is earnestly needed.

I mention it as one of the projects to which State initiative rather than federal initiative may well be given.

It will furnish us with a new outlet from the Lakes to New York City and the Atlantic Ocean and will enable us to compete once more with the great fourteen-foot channel of the St. Lawrence System.

Twenty years ago the committee on railways and canals of the Fifty-second Congress said: "*On the day that it becomes possible to send ships direct from the Great Lakes to the ocean by way of the St. Lawrence River, while they are unable to go by way of the Hudson, . . . the merchant marine of the United States, which has had a new birth on the lakes, will receive its death blow from Canadian competition.*"

That statement was made in 1892 and the report advocated the construction of a deep-water channel from the Lakes to the Hudson.

Somehow the railroad interests succeeded in convincing the people that New York interests would be better served by a mere barge canal.

But Canada proceeded with her own development, and her guiding principle was that freights should be carried in an unbroken bulk from the Lakes to whatever foreign port they were consigned to or at most with only one transshipment.

We must have a way out to the sea for our own ships, by which they can come and go as freely as if on the ocean.

Canada has flanked us commercially and is taking the commerce of the west through Montreal.

Already our farmers are finding their closest competitors in the great Canadian northwest, and Winnipeg has become the greatest wheat market in the world.

Our wheat supremacy passed from Chicago to Minneapolis and then to Duluth; and now Manitoba has become the center of the wheat market.

Our cereals compete with those of the Saskatchewan basin, which, with its splendid outlet to the world, will displace our own agricultural districts unless we provide a low-cost outlet to our markets.

#### THE CANADIAN SYSTEM.

One of our obstacles to waterway development is found in the failure of our canal promoters and advocates to insist upon channels of sufficient depth.

Consequently, while the Canadians carry an unbroken cargo of 80,000 bushels on a channel 14 feet deep, our Erie system is limited to a cargo of 8,000 bushels on a channel less than half the depth of the Canadian system.

The Canadian method is *right*, our way has been wrong.

The Canadian system has developed in accordance with a broad-minded governmental policy.

Our policy has been badly defined, narrow and selfish.

Canada has spent on her canals and navigable inland waterways a total of 130 million dollars, as against 475 million on her railroads—a ratio of about one to three and a half.

We have expended sums on our waterways and railroads on the ratio of one to thirty-six.

Relatively Canada has spent ten times as much on her waterways as we have spent.

With the development of the Canadian canals, the cost of carrying freight has almost steadily declined.

For instance, on the Sault Ste. Marie Canal, in 1890, the cost of a ton-mile was one and three-tenths mills.

Twenty years later it had dropped to seventy-nine one hundredths mill.

And at the same time, the total shipping has tremendously increased.

For example, the total freight carried from the Canadian system of canals in 1908 was 17 million tons.

Within the next year it jumped to 33 million tons.

Yet, the number of trips diminished, showing the steady increase in the tonnage of the average cargo.

In fact, the average cargo in 1908 was approximately 1,000 tons.

The comparison of this record with the pitiful shipments of our own canals need not be dwelt upon here.

Canada has recognized the essential difference between waterway and railroad traffic, and has realized that both kinds are indispensable.

The function of the waterways is to move the lower grades of freight at a cheap rate.

The function of the railroad is to move the higher grade freights, and to move them fast.

That is the natural distinction between railroads and inland waterways.

Throughout the greater field of raw materials and cheap merchandise, speed is not essential, but economy is.

The railroads have a sufficient field of service and profit in connection with the higher grades of freight which demand prompt shipment and upon which a heavier charge can be paid.

Our public policy should have recognized this relation between waterway and railroad transportation, and maintained it as the basis of a more equitable adjustment between the two methods.

I think I have made it clear that we are the only country of commercial importance which has ignored this vital consideration.

#### THE ARGUMENT FOR SPEED.

The railroad advocates are loud in their criticism of the inland waterway as an impracticable means of transportation on account of the alleged slowness of waterway service; and we may freely admit that in general the railroads ought to render a faster freight service than could be given by the inland waterways.

The fact is, however, that we have congested our railroads with so much low-grade freight that all American freight movements are impeded beyond reason; and we shall not get a satisfactory rate of speed for the freight train until we have learned to ship our raw materials more generally by water.

Let us examine this statement in detail:

In 1910 the American railroads moved in round numbers

18,000 million freight car-miles, and the number of freight cars in service was two million.\*

From this it is evident that our freight cars moved on an average of 9,000 miles a year, which is slightly in excess of 24 miles a day.

So much time is lost by demurrage, on sidings and in the repair shop that the potential service of our freight cars is reduced in practice to this excessively low figure.

It will be noticed that the figure of 24 miles (or to be exact 24.6 miles) per day represents the average travel of an American freight car.

Of course there is a good deal of fast freight that moves more rapidly, but I am a shipper of machinery and other manufactured goods, and I know from my personal experience that many carload shipments proceed at the rate of only five or ten miles per day.

I do not think that we need to debate at any great length from these data that the inland waterways are capable at least of rendering a sufficiently fast freight service for our cheaper grades of freight.

I personally know of many freight vessels which have averaged not 24 miles a day, but 150 miles a day, day in and day out, during every month of the year.

If our waterways were properly developed, the immediate effect upon the railroads would be to enable them to move the higher grades of freight at a much increased average rate of speed.

The European practice of utilizing the inland waterways (natural and artificial) for low-grade freights has indeed taken this business away from the railroads, but it has not crippled the railroads.

The average percentage of net revenue to capital on American railroads for 1911 is stated to have been 5.36 per cent.

In Germany, with its splendid equipment of waterways and canals, the average per cent of net revenue to capital on the German railroads was 5.09.

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\* The actual number of car-miles was 18,349 million, and the actual number of freight cars in service was 2,135,000.



## CONCLUSION.

If we were to rest our appeal for the development of our inland waterways only on the necessity of effecting a better freight service through the interior of the country, the issue would even then be unmistakable.

But this is only the lesser of the two considerations involved, for we are rapidly assuming a more important place in the larger field of foreign trade.

The opening of the Panama Canal will not only stimulate our own domestic commerce but will act as a stimulus to our foreign trade also.

It will make our western seaports easily available to Europe, and it will put our eastern seaports within the reach of the Orient.

But we cannot benefit as we should by this expanding commerce without a radical change in our public policy respecting transportation.

We must have outlets to the ocean from our principal industrial centers; we must have lateral canals connecting with our principal waterways; and we must open up as much as possible of our continental territory to our own merchant marine and to the ships of other countries as well.

Only from the most narrow and short-sighted policy could we further ignore the need of such development.

The change of public sentiment in favor of a broader commercial policy is further evidenced in the universal dissatisfaction with established tariff schedules, and the demand for closer relations between ourselves and the rest of the world.

Surely we cannot shut our eyes to the growing sentiment for an expanding international commerce on the one hand or to the pressing needs of our own domestic transportation on the other.

Both considerations unite in giving the utmost weight at this time to a plea for the concerted development of all our principal inland waterways, our lakes, rivers and canals; for the building up of our existing seaports; and for the planning of future ocean terminals upon the broadest scale. (Applause.)

CHAIRMAN DIX—There is another paper to be delivered on this subject by Governor Deneen; but I understand he is not here. Is there anybody here to represent him? If not, the paper will be received for publication in the proceedings.

It was moved and seconded that Governor Deneen's paper as written be handed in to the Secretary and published in the minutes of this Conference. Motion carried.

### “INLAND WATERWAYS.”

GOVERNOR CHARLES S. DENEEN OF ILLINOIS.

Mr. Chairman, Ladies and Gentlemen:

The subject assigned me contemplates a discussion covering the inland waterways of the United States, but, in view of time limitations and of my greater familiarity with that subject, I shall, generally speaking, confine my remarks to a discussion of the waterways of my own State, Illinois, and their relations to other domestic waterways of the country.

The principal outlets of the interior waterway systems of the American continent flow on the one hand into the Atlantic ocean and on the other into the Gulf of Mexico, and it is because of their relation to both of these waterway systems that Illinois rivers may be said to occupy a position of pivotal importance. Even at the present time, and this has been the case for some years, a continuous water route traversing Illinois and actually unifying the two systems exists; and this is at all points either actually navigable or easily susceptible of being made so at an outlay small when compared with the commercial and other benefits which would follow from its improvement and development.

This continuous water route is formed by the Great Lakes and the St. Lawrence River with its outlet into the Atlantic Ocean, the Mississippi River with its outlet into the Gulf of Mexico, and the Illinois rivers and artificial waterways which form a connecting link between them. It is in the supplying of this link, or rather in making it serviceable for purposes of navigation,

that the nation at large, as well as the State of Illinois in particular, is deeply interested.

This connecting link is supplied at present by the Chicago River, which formerly flowed into Lake Michigan but since the construction of the Chicago Drainage and Ship Canal has reversed its current and flows from Lake Michigan into this artificial channel. At Lockport, the terminus of the Chicago Drainage and Ship Canal, twenty-eight miles below Chicago, the waters of the Chicago River are transmitted to the Des Moines River and thence into the Illinois River and down that river to the Mississippi.

It will be seen therefore that Illinois is peculiarly concerned in the present general movement for the improvement and development of our internal waterways. Three-fourths of our State is bounded by water courses, and all around us the national government is spending large sums of money for their improvement. A continuing appropriation of \$60,000,000 is now being expended upon the improvement of the Ohio from Pittsburg to Cairo for a nine-foot channel; a continuing appropriation of \$12,000,000 upon the improvement of the Missouri from St. Louis to Kansas City for a six-foot channel; a continuing appropriation of \$20,000,000 on the improvement of the Mississippi from the mouth of the Missouri to St. Paul for a six-foot channel; and an appropriation of \$1,000,000 and \$40,000 per year has been conditionally made by the national government for the improvement of the lower Illinois from Utica to Grafton, provided Illinois does its share of the work.

I have already spoken of the Chicago drainage channel. On this the Sanitary District of Chicago has already expended \$66,000,000, a large part of which has been required to make the channel suitable to commercial as well as to sanitary purposes.

The importance of the navigation features of this great drainage and ship canal may be seen from the action of the federal government which for years has been insisting on the lowering of the Chicago River tunnels by the municipality of Chicago, as well as on the removal of center pier bridges over that stream. When this work has been completed by the City of Chicago, the national government stands ready to appropriate \$7,000,000 to-

ward the building of an outer harbor in Lake Michigan at Chicago. In November, 1911, the people of Chicago voted a bond issue of \$4,665,000 to remove the bridges and last spring a proposed bond issue of \$5,000,000 for harbor construction purposes was submitted to and approved by the people of Chicago. So that nothing stands in the way of the realization of the dream of continuous navigable water route through the heart of the American continent, except appropriate action by the State and national governments to which both are virtually committed and which the exigencies of our industrial and commercial development are pressing more and more imperatively upon national and state attention.

I have spoken of the carrying out of this very practical project as the realization of a dream. But this is one of those dreams of which the stuff of history is made. It was dreamed by Joliet in 1674 when he declared that "by cutting half of a league of prairie" boats could pass from the Great Lakes to Florida by a very good navigation.

Coming down to the later days when dominion over the Illinois territory was successively claimed by Spain, France, Great Britain, Virginia and the United States, all these recognized the importance of this network of interior waterways and their outlets to the sea and endeavored to preserve or secure mastery over them. Spain controlled the Mississippi and its outlet to the Gulf of Mexico. France through its projected chain of forts sought to control the Ohio, the Great Lakes and the Mississippi; Great Britain to maintain ascendancy over the lands and rivers of the American continent as far west as the Mississippi, and the colonies to take advantage of the victory of George Rogers Clarke and his Virginia soldiers to proclaim their western boundary as the Mississippi River.

In the Virginia Ordinance of 1787 for the government of the Northwest Territory Virginia declared as forever free "the navigable waterways leading into the Mississippi and the St. Lawrence and the carrying places between them."

In 1808, in his report on means of internal communication, Albert Gallatin gave a prominent place to the project for a ship canal across the Chicago portage.

In 1811, the Illinois waterway was reported to Congress in a bill along with the proposed Erie and other canals.

In 1814, President Madison in his message to Congress invited attention to the importance of a ship canal between Lake Michigan and the Illinois River.

In 1816 Major Long, the builder of Fort Dearborn, reported to the Secretary of War that "The water course which is already open between the River DesPlaines and the Chicago River needs but little more excavation to render it sufficiently capacious for all the purposes of a canal."

When the bill for the admission of Illinois to the Union was pending before Congress, Nathaniel Pope, Illinois' territorial delegate to Congress, secured an extension of the territory of the new State sixty-one miles north of the line fixed in the Northwest Ordinance in order that Illinois might have a port on Lake Michigan and that the construction of the waterway between Lake Michigan and the Mississippi River should not be prejudiced.

Many other projects for breaking down the barrier between the two great waterway systems of the country, the Great Lakes, the St. Lawrence and Atlantic, and the Mississippi and the Gulf of Mexico and providing navigable connection between them were discussed. This was first effected through the construction of the Illinois and Michigan Canal for which, in 1822, the United States granted a right of way through the public lands and in 1827 made a grant of land. This canal was opened in 1848, but it was not until 1866-1871 that the city of Chicago cut down the summit level so as to permit the waters of Lake Michigan to flow by gravity to the Mississippi and the Gulf. This canal is  $97\frac{1}{4}$  miles in length, six feet deep, 60 feet wide at the surface and 36 feet at the bottom in earth, and 48 feet wide in rock, with locks 110 feet long, 18 feet wide and 6 feet deep on the miter sills.

For some years this canal has been little used for commercial purposes. At present, however, there are projects afoot for putting it into active service and plans are now being considered for putting the canal into good condition before next year's navigation opens.

A later waterway enterprise, however, which parallels the Illinois and Michigan Canal between Chicago and Lockport, a distance of twenty-eight miles, is of much larger dimensions and undoubtedly better suited to meet the requirements of modern commerce. This is the Chicago Drainage and Ship Canal already mentioned, and it is with a project for its extension southward to Utica on the Illinois River and for the improvement of that river from that point down to the Mississippi River that Illinois particularly and the nation generally are at present concerned.

As already stated this enterprise has been discussed repeatedly by the federal authorities, both in reports of federal commissions and of officers made to Congress or to the War Department, as well as in Presidential messages. But in addition to this, numerous investigations and surveys were undertaken by the national government, and in 1852 a certain amount of work was done by the national government on the lower Illinois River.

In 1858 the construction of "a steamboat waterway" was recommended by John B. Preston which, in conjunction with the enlarged Erie Canal, was urged on Congress in 1862 as a war measure.

In 1866 Congress ordered surveys and the development of a project for a system of navigation by way of the Illinois River between the Mississippi and Lake Michigan adapted to military, naval and commercial purposes.

In 1867 Gen. James H. Wilson, in cooperation with William Gooding, engineer of the Illinois-Michigan Canal, recommended a project for a canal 160 feet wide and from six to eight feet deep across the Chicago Divide between Chicago and Lockport, with a continuance of the waterway by a system of dams and locks to Utica.

In 1878-80 a report to the federal authorities found locks and dams somewhat cheaper than open channel improvement and accordingly the national government constructed the locks and dams at LaGrange in 1889 and at Kampsville in 1893.

Other surveys were made in 1874 by F. C. Doran and in 1883 by G. Y. Wisner, and in 1902 the national government appointed a commission to determine the feasibility of constructing a navigable waterway 14 feet deep between Lockport, Illi-

nois, and St. Louis, Missouri, and appropriated \$200,000 for making the necessary surveys and investigations.

In 1905, this commission reported the feasibility of the project and estimated its cost at approximately \$31,000,000.

In the latter year the General Assembly of Illinois created and I appointed a commission known as the Illinois Internal Improvement Commission to investigate and report upon the various collateral benefits which will accrue to Illinois from the construction of such a waterway. In 1907, this commission made its report showing many collateral benefits such as river improvement, land reclamation, flood subsidence, etc. Among the collateral benefits pointed out was the water power susceptible of development as an incident of waterway construction. In this respect the report showed that between Lockport, the terminus of the Chicago Drainage and Ship Canal, and Utica on the Illinois River, a distance of 61½ miles, more than 100,000 net electrical horse power could be developed; that this would provide a revenue of approximately two and a half to three million dollars per year; that the cost of constructing the waterway and developing the water power would be in the neighborhood of \$20,000,000; and that the revenue from the water power would defray this cost in a period of from fifteen to seventeen years.

This report was transmitted by me to the Illinois General Assembly with a message in which I called special attention to its water power features and urged that this water power should be secured, developed and conserved for the public benefit and for these purposes urged that the General Assembly should provide the necessary legislation.

Accordingly, the General Assembly unanimously adopted for submission to the people of Illinois a proposed constitutional amendment authorizing the issuance of \$20,000,000 in bonds for the construction of a waterway between Lockport and Utica and the development of this incidental water power. This amendment was voted upon at the general election following in November 1908 and overwhelmingly approved.

It then became necessary for the General Assembly to enact the legislation required to create a State commission or agency to carry out the project. Bills prepared by the Illinois Internal Improvement Commission and by others were introduced for this

purpose. Differences in regard to the method of carrying out the project prevented any of these being enacted. Since that time the subject has been before the Illinois General Assembly at every regular session and at a number of extraordinary sessions called specially to consider it; but no legislation has been enacted and the matter is in a state of deadlock.

The principal questions over which differences arose in the Illinois General Assembly related to the adequacy of the \$20,000,000 to complete the work and the question of federal cooperation,—that is, whether federal cooperation should be secured antecedent to, or be made a condition precedent to, the State's entering upon the enterprise.

The members of the General Assembly who opposed the carrying out of the project took the position that nothing should be done without federal cooperation and then refused, inconsistently, to vote for the creation of any State commission to negotiate with the federal government in reference thereto.

But to return to the question of the adequacy of the \$20,000,000 to complete this work and the question of federal cooperation.

In the meantime, that is to say, on June 25th, 1910, the federal government by a provision in the Rivers and Harbors Act of that date, created another federal commission and held a conference with an agent of the State appointed by myself for the consideration of these two questions. The report of this federal commission made January 23, 1911, found the \$20,000,000 adequate to the carrying out of the State's project and further declared, "but if, through unforeseen contingency these funds prove insufficient, the United States will be warranted in assisting the State by contributing such part of the cost as might be eventually found necessary to complete the construction of suitable locks in the dams below Lockport and of bridges over this section of the waterway."

All the conditions necessary for the completion of this great project which would provide a navigable waterway between the Great Lakes and the Mississippi River, therefore, have been thoroughly discussed and it only remains for the General Assembly of Illinois to provide the requisite legislation.

That this waterway will be constructed, I think there can be as little doubt as that it will be of immense commercial benefit



to the country and of both commercial and local benefit to the State of Illinois. The danger of delay is that, whilst the State and the nation are parleying as to methods, the immensely valuable water power the revenue from which can be made to pay all the cost of waterway construction and water power developments, provided it is secured for the public benefit, may pass into private hands, and private water power companies instead of the public be the beneficiaries. Legislation intended to provide for the purchase of the necessary water power sites by the State to be held pending the solution of these other questions which have arisen has also been introduced into our General Assembly, but so far has failed of enactment.

At the present time there is pending in the Supreme Court of the United States a suit commenced by the State of Illinois against the Economy Light and Power Company, to determine the right of the State to enjoin the company from building a dam for water power purposes across the Desplaines River. A suit involving the same questions has also been started by the federal government against the same company which undoubtedly will be carried to the Supreme Court of the United States and receive a hearing at the same time as the case of the State of Illinois. The decision of these suits will go far toward determining the relative rights of the State and of private individuals and companies in water power which has been created entirely through the expenditure of public money collected from the tax payers of the State.

But regardless of the decision of these suits, if the State of Illinois were to secure through condemnation proceedings the land necessary for waterpower sites and overflow purposes, it would have to pay therefor at the ordinary market prices of marsh lands in that locality; because a municipal corporation having purchased several pieces of the land necessary for these purposes, and the State alone having the power of condemnation, no private individual or private water power company is in a position to acquire it.

If on the other hand the contention of the water power company as to the ownership of water power is upheld, and the company is enabled to purchase from the municipality the tracts of land referred to, so valuable is the water power that the

State could not purchase the power sites and overflow lands for the \$20,000,000 made available by the constitutional amendment, much less construct the waterway and develop the waterpower.

The campaign against the State's waterway and water power project has been conducted on the theory of delaying the enactment of the necessary legislation until the courts have settled the rights of the State and the water power companies, with a view of thus permitting the companies to acquire from private owners and from the municipality the land in question.

The waterway agitation in our State, however, cannot subside. It is part and parcel of the movement for the general development of American waterways which has stirred the American people along with many other allied subjects connected with the movement for the conservation in the public interest of the natural resources of the country. Industrial no less than commercial development is dependent upon it. Our railroad transportation facilities have proven inadequate to the demands of our domestic production and, backed by this condition, the movement for the improvement of American waterways and their extension must succeed. I have confined my remarks largely to what may be called the trunk line of interior waterway development; but all around the seaboard of the country projects are afoot for the saving of distance and the elimination of danger from our domestic water-borne traffic with a purpose of lowering ship insurance and transportation rates in order to provide easier, quicker and cheaper transportation for our goods and thus inevitably to stimulate our productive industries.

High cost of transportation is the same in its ultimate effects as lack of transportation. The problem facing American industry now that it is, as never before, confronted with European and Asiatic competition, is to provide not some means of transportation, but the best and cheapest means both for the shipment of finished products and for the assembling of raw materials at the points most advantageous for their manufacture.

The Panama Canal is a great undertaking, one of the greatest, if not the greatest from an engineering point of view, ever undertaken by man. But it will lose half its possible significance to our domestic trade if it was not supplemented by an adequate development of our domestic waterways under State and na-

tional authority and subject thereafter to State and national regulation and control. The powerful discrimination which has been exercised in some instances by our railroad companies to discourage or destroy water competition must never be permitted to endanger the success of this great movement to which the people of the United States as well as their State and national governments are becoming more and more committed.

Terminal facilities must be kept subject to federal control. Joint rail and water rates must be safeguarded from exploitation by private rapacity as effectually as the use of rebates and other unfair devices to strangle business and destroy free and honest competition have been forbidden by law. Under such regulation, the development of our railroads and our waterways can proceed without mutual interference and with mutual benefit, and our country be permitted to realize to the full the benefits of its natural and acquired commercial advantages.

I am not unmindful of the great debt which our country owes to private enterprise and that in many respects it has proven and seems to be the best incentive to commercial and industrial activity and to the achievement of commercial and industrial success. But powerful and useful as this incentive is, it has its limitations and its proper sphere of action. To other spheres it is either foreign or truly successful only when subject to proper public control. And this is especially the case in respect to the use of the great highways of commerce, whether railroads, street cars, interurban systems or waterways. These are naturally of a public or quasi public character and as such come strictly within the proper sphere of public regulation and control. Other countries have met the problems involved in the development of their waterways and railroads, in the construction of proper terminal facilities for both forms of traffic and for their joint use where necessary, and in every instance that has called for a very large exercise of public supervision. This will be the case with us and fortunately our people are becoming familiar with this view of the subject and our State and national governments are becoming better fitted to carry out these regulative requirements.

The opening of the Panama Canal is but a short distance in the future and I look to see its opening exercise such a stimulat-

ing effect upon the American waterways movement that it will no longer lag as now, but will go forward with renewed impetus and unbroken steadiness until its important benefits have been realized by the American people.

Moved and seconded that the Conference proceed to discuss the papers that had just been read.

Motion carried.

GOVERNOR TENER—I wish to say just a word or two on the subject presented so splendidly by the Governor of Massachusetts, Mr. Foss. Two years ago it was my pleasure when in Congress to serve on the River and Harbors Committee and naturally I was very much interested in the subject of the improvement of our waterways—inland waterways especially. In the Governor's paper he stated, among other things, that perhaps for the reason that Pittsburgh had not attempted or had not completed a canal from the Lakes to the Ohio she had lost her industrial supremacy. Pennsylvania is alive to the question—alive to the situation. At the time of my induction into office when the question was up actively, I stated that I would favor the aid by the State of such a project, when the project was proven feasible and when it was proven possible to state definitely its cost and its benefits. It has been doubtful in the minds of intelligent business people of Pittsburgh whether that project was feasible—the very large boats used on the lakes would not come down the canal and if they did they could not float on the waters of the creeks. Pittsburgh had been alive to the benefits of inland waterways, and the fact that she has always used the inland waters of the Alleghany, the Monongahela and the Ohio, and is one of the few points that has used them, fully demonstrates the fact that Pittsburgh is now and always has been alive to the benefits of shipping by water routes. Pittsburgh has not waited for a canal to get its coal and iron products to the Southern markets by water, but has availed itself of the floods and high water when the barges could be floated. Pittsburgh's output of coal on its rivers is more than eleven million tons annually, of which eighty per cent goes to the lakes and the balance goes south to Louisville and farther south; so we have always and do now use the improved waterways in and about Pittsburgh. I do not believe

that Pittsburgh should rest under the charge that by reason of the fact that she has not built a canal to connect her waterways with the Lakes she has lost her industrial supremacy. Nor do I believe that she has lost her industrial supremacy.

GOVERNOR HADLEY—Representing as I do a State that has more miles of inland water than any other State in the Union, I was very much interested in the paper on "The Development of Inland Waterways" read by Governor Foss. There was one thought that presented itself to me, and that is that the primary obligation rests upon the national government to deal with this question of the reclamation of swamp lands. By reason of the authority which the national government claims over the State, the State can do nothing in improving their rivers without the concurrence of the national government. This duty has not been performed by the national government and there is not only an impairment and a falling off in our natural means of transportation as compared with the countries of continental Europe, but also an enormous devastation of land which is subject to overflow, as in the Mississippi Valley. During the last few years the national government has pursued a very liberal policy in making appropriations for irrigation in the Western States and they have appropriated and expended something like one hundred and twenty-five millions of dollars in the last ten or fifteen years to put water on three millions of acres of arid lands in the West. Now, nobody who understands this proposition is going to dissent against the policy; but those States in the Mississippi Valley that have available for their use such a great highway of travel as the Mississippi River ought to insist that their rivers be given proper care by the national government to prevent the overflows and consequent devastation that frequently occur there and also that her swamp lands be reclaimed. In other words, that the national government treat the States in the Mississippi Valley as well as they have treated the States in the West in regard to their arid lands; because we have in the Mississippi Valley twenty million acres of swamp lands which are totally or partially useless. If this was reclaimed and the soil used for the production of food products it would have a great effect in solving the problem of the high cost of living. Now, we don't dissent against the policy of the national government in re-

claiming the arid lands of the West, but we do believe that the time has come when we must take the water off the swamp lands of the Mississippi Valley and we will make a mistake, in my judgment, if we shoulder, or undertake to shoulder, the duty that rests upon the national government in this respect.

GOVERNOR SHAFROTH—The remarks of the gentleman from Missouri have brought forth a matter which I do not think he thoroughly understands, and that is that the amount the national government has appropriated and is expending in the reclamation and irrigation of the arid lands of the West is not a gift at all, but simply a loan by the government to the owner of the land that is reclaimed, which is repaid in ten annual instalments and the government takes the land as security for the payment. The comparison made by Governor Hadley is not exactly correct, because ours in the far West is simply a loan which has to be repaid.

GOVERNOR CAREY—Governor Hadley was very unfair in his statement, because he did not state the whole question. These waste lands in the States were given to the States and it was expressly provided in the organic acts that the sale of the lands to private owners shall contribute to the cost of the irrigation and also provides for the maintenance of the canals for all time and also provides that the money shall only be used in the West that comes through the sale of the public lands in the West. They only give back the money which they have derived from the disposition of these lands, and it is in the nature of a loan that shall be continued and go on from time to time until all the arid lands are reclaimed. It is so expensive in the way in which the government is administering it that there is scarcely a man that obtains his water for his land for less than \$50 an acre, and in addition will have to maintain these canals for all time. I believe in the improvement of these great waterways to make commerce cheaper, but I think you will injure your cause when you compare it with the system of reclamation of the arid lands of the West.

GOVERNOR HADLEY—I am fully aware of the plan that is adopted by the government in the reclamation of these arid lands of the West, being interested in some of them myself; but I want to make the point that great devastation is being wrought by the

overflowing of the rivers and swamping of the lands in the Mississippi Valley and I maintain that the national government is neglecting her duty in regard to these conditions. And I want to know from the representatives of these arid States whether they dissent from the position I have taken.

GOVERNOR DONAGHEY—I think that Governor Foss had an excellent paper; but there is no question but that the stand that Governor Hadley has taken concerning the neglect of the national government in her duty concerning the Mississippi Valley is well taken. And there is this point that has not been brought out: in the spirit of improvement that the government takes where it takes jurisdiction it has gone to the Philippine Islands and guaranteed the interest there on railroad bonds and it has built highways there and left the people here in the most densely populated district of its own country to look out for themselves. I thought this morning when Governor Foss was reading his paper, what a great idea it is; what a great thing it would be for the lands of the Mississippi Valley. We have land there—the richest in the world. There is no question about it; because the best geologists have decided that. Why, we have land in the Mississippi Valley where today hunters are killing bear; when if the government would exercise its control, as Governor Hadley has said, it would be of great agricultural value and worth something far more valuable than bear killing. I saw the other day land where cane was growing five feet high—land that would produce anything that can be grown in that country. That land, I know of some of it, was sold for from \$7 to \$40 an acre. It has grown more valuable since then for the timber that is on it. Now it would pay the private owner to give it to the government for a very small price and then buy it back after the government has reclaimed it, just the same as is the practice in the Western States. I think there can be no legitimate objection to the improvement by the government of these lands.

GOVERNOR BROWN—I don't contest the propriety of the national government to improve its own property; but there is a point you must consider in connection with this land in the West. It is its own land which the government is improving at the expense of the rest of us. If the money which was received from the sale of lands by the government went into the general

fund, Georgia would receive her part in the reclamation of her swamp lands; so would the rest of the States. If a general policy were adopted, such as Governor Hadley has advocated, it would result in the improvement of some of the richest lands in the United States. Now, the State of Georgia's general report shows there are 2,700,000 acres of swamp land in Georgia. If the rivers were improved and the swamps drained some of the richest agricultural lands could be saved. Some of the richest sugar and syrup lands of Georgia and Louisiana could be reclaimed. In all the Eastern States land could be reclaimed and made to produce crops suitable to the climate—in Virginia here, for instance, corn and other products. Lands would increase in value and mankind would be benefited. Hence, it seems to me for the national government to extend its policy throughout the United States would be the proper thing—taking the swamp lands of the South and East with the lands of the extreme West which need irrigation. I think the general policy would be the just policy, and would work out the greatest results for all the people of the Union.

GOVERNOR DONAGHEY—Is it not a fact that these swamp lands in the States referred to are lands either owned by private individuals or donated to the States by former acts of Congress?

GOVERNOR BROWN—That is true, but when you improve a navigable river you improve every man's land on the river.

GOVERNOR HAWLEY—There is a different principle in regard to the reclamation of these lands in the West, because the arid lands of the West, taking it as a general principle, are lands belonging to the government. The government makes those lands possible for settlement by constructing the canals and irrigating the lands, with the privilege to the people to acquire these lands; and this is done at a certain fixed rate, which meets all the costs of the construction of the reclamation work and also bears the interest upon it, and the party purchasing that government land not only buys the land itself from the government, but he pays the cost of the reclamation.

GOVERNOR HADLEY—You don't mean to contend that the government has not built reservoirs and canals for private lands?

GOVERNOR HAWLEY—I mean that all the reclamation projects in my section of the country have been constructed for the pur-



pose of the reclamation of lands belonging to the United States, though there are some private interests, but the private owners pay their proportion.

GOVERNOR BROWN—I just want to say that the point I had in mind is that the government is putting itself in competition with its own citizens in taking the money from the sale of these public lands and localizing it on its own lands.

GOVERNOR HAWLEY—That I deny. The money is returned to the general government. Of course, it will probably be used for other reclamation projects. The States or private individuals, as I understand it, own the most of the swamp lands in their States. That being the case, why don't the States owning these lands bond themselves in order to give this assistance?

GOVERNOR GILCHRIST—Most of the States have granted these lands and got nothing. Florida gave hers to railroads and got railroad bonds in exchange. Iowa gave hers to the counties with the understanding that the proceeds of their sale should be applied for roads, public buildings and school houses and things of that kind. It was tested after they got it in one county, Mills county, which gave hers to the railroads. After the railroad had been built the question was carried up on the ground that it was an improper grant to give it to the railroad; that the lands could not be diverted for railroad purposes. The Supreme Court held that that limitation applied only to the proceeds from the sale of the land, and did not apply to the land itself. The State decided it was not necessary to apply the proceeds at all. Nobody but a sovereign could raise the point and the sovereign State of Iowa having already acted in the case, no other party but the sovereign United States could act. The United States owns the arid lands of the West and sells them and gets value received for them. Down in Florida we have dug a canal for commerce—the little State of Florida has dug a canal 600 miles long from Jacksonville to Miami. The State gave some of these lands in the construction of that.

CHAIRMAN DIX—The subject "A State Income Tax" has yet to be discussed, and I am afraid the discussion of this subject, "The Development of Inland Waterways," is encroaching on it, and I think we will have to disregard some of the arguments of the law in this case. In my own State there is a peculiar

situation. We desire there to construct a dam costing a million dollars, for which we had the money, at the outlet or opening of a particular canal, and we are in a controversy with the government on the subject.

GOVERNOR DONAGHEY—The question of the reclamation of lands is as every man here who has studied the history of countries knows a function of the government. Every man who has studied the question knows that the government has spent more in the reclamation of these lands than the lands are worth, but being a governmental function it has paid; because it has put men to work producing wealth on the land, which has given wealth to the government. These lands in the Mississippi Valley are still there and are uncultivated. It is beyond personal ability to reclaim those lands; it must be done by the government. My State having 2,000 miles of navigable streams, with all of her swamp lands, is unable to reclaim those lands.

CHAIRMAN DIX—I reiterate that the discussion of the "Income Tax" question is being encroached upon.

GOVERNOR DONAGHEY—On the income tax question—the Constitution of my State provides that the Governor shall approve or disapprove all bills passed by its Legislature. The Legislature of my State approved the federal income tax amendment, but the Governor, who was myself at the time, disapproved it, on the ground that he preferred an income tax for the State, and to have both a federal income tax and a State income tax would be burdensome. So we are in that situation now. Our authority as Governor to veto such a resolution will probably be challenged and is disputed in many quarters.

CHAIRMAN DIX—I think it is fresh in the minds of the Governors that an attempt was made to prevent the government from passing a federal inheritance tax on the ground that the income tax might be considered necessary by the States. In our State of New York the income tax law was passed two years ago, but we seriously object to the inheritance tax being imposed by the government.

GOVERNOR CAREY—I move the unanimous consent of the Conference that Miss Barnard be given ten minutes at this time to address the Conference. The motion was duly seconded and carried.

MISS KATE BARNARD,  
COMMISSIONER OF CHARITIES OF OKLAHOMA.

I have listened with interest to your discussion on ditching and dredging of waterways, conservation of soil and other natural resources, except human life, and it led me to ask this question: Why conserve anything? Why the world?

Without men there would be nothing to conserve, and no one to conserve it. Without the human race the earth might wander forever through space a cold ball.

Human conservation, then, is the first consideration of true statesmanship. No other conservation should be thought of until this is assured. So long as America has one starving child our Governors and statesmen have a right to think of nothing else—for the efficiency of civilization itself is challenged.

Yet there are six million women in these United States toiling for a pittance wage—women whose most important life business in life should be “the building of bodies and souls of little children”—many of them are on the road to motherhood, yet their wage will not buy sufficient food and the child is starved before it is born. Meanwhile the long hours waste the vitality of the mother and rob the child of its natural birthright—to be strong when it is born.

CONSERVATION OF MOTHERS NECESSARY.

The conservation of any other natural resource falls into insignificance in the face of a tragedy like this. While we sit, the sands in the hour-glass are measuring how fast we travel toward the silence of eternity—as this tragedy goes on.

In a little while it will be too late for us to act. Shall we pass on and bequeath this condition to other men,—perhaps our children? Or shall we while yet we occupy positions as Governors and controllers of the destiny of a nation use our influence to blot out this crime?

CONSERVE THE NATION'S CHILD LIFE.

Two million American children are slaving in mines, mills and factories while we sit here. It has been my misfortune to visit

some of their workshops. I have seen them toiling in glass factories, breathing glass dust and drenched to the skin in perspiration wrung from their life blood. Thousands of these little ones work on day and night shifts in glass factories till the glass dust cuts the delicate tissue of their lungs. In a few months they expectorate blood,—in a few years die. Think of the early graves we have dug for these American children. Think of the tombstones that glisten between us and the gates of eternity. How will it be with our souls when we appear before the Master who took little children in His arms and blessed them, thus showing Christian nations how to treat their young.

Truly you are playing the Game of Life—the stake is the destiny of a nation, and the pawns are the bodies and souls of little children and helpless women and men. When you get home what are you going to do about it?

America's children are working in coal breakers in dust so thick they wear lamps in their caps at mid-day to see the slate in the river of coal which is moving under their feet.

In the cotton mills the little ones work midst the roar of machinery—steel clashing on steel till their voices are silenced and as Markham says, “they beckon each other like spectres across some thunder-shaken inferno.” They breathe cotton lint at every breath till it wads in the lungs. The constant vibrations of the floor as it responds to the throb of the giant machinery, shakes the delicate protoplasm of the nerves and sets up an irritation which results in St. Vitas' Dance. One mother whose husband had been killed in an accident, was forced to put her delicate child in the mill. At the end of four months she became afflicted with St. Vitas' Dance and after five weeks of delirium and fever, died. During the whole period of her illness she kept her hands going through the motion of tying threads—this was the one thing civilization had taught her. Finally in delirium she cried out for the last time, “O, Mamma! I've broken the thread.” A loving Heavenly Father had broken the thread of the little child's life and kindly rescued her from world pain.

I have seen thousands of hollow-cheeked, sunken-eyed, stoop-shouldered, weak, wasted little ones—aged and feeble while yet they were young, standing in front of the world's most perfect machinery,—tying broken threads.

And the thought came to me,—it is as it should be—the broken thread is typical of the broken life of the baby whose fingers tie it.

#### PERFECT MACHINERY AND IMPERFECT MEN.

We have in this nation truly the conservation of machinery. Machinery so perfect that no one can add a screw, wheel or bolt. We have conservation of wood, stone, brick, mortar, steel and land. Is it not time to conserve men? Let us have a new national policy and thus obviate the experience of extinct races and peoples.

When America meets Germany or Japan on the battlefield of nations the victory must come to the strongest men. In that hour how will it be with our two million child slaves with their weakened muscles and feeble brains? Of what avail our six million women toilers and their puny progeny? If America carries to the ultimate her careless human policy where will be her soldiers to bear arms for the State? Of what avail her skyscrapers peopled with a race of weakling men? Either forward to race conservation; or backward to oblivion. And the trend of civilization must depend on the policies advocated and executed by men like you.

Greece had her day. She produced art and architecture still copied by the world, but her rulers neglected her human problems. Their leaders conserved money—not men. And today Greeks whose ancestors built the Parthenon have become the ditch-diggers and scavengers for a foreign republic, and the Greeks are scattered to the four quarters of the world.

This is what happens to a nation whose leaders of public thought and moulders of human destiny, neglect its men. If Germany or Japan give better care to child life, in time the shades of those now living will witness the spectacle of American posterity digging the ditches and doing handiwork for a nation other than ours.

We should have child-labor and compulsory education laws, mothers' compensation laws, eight-hour day, free employment bureaus and public works for the unemployed, together with a minimum wage, in order to conserve our men.

In Oklahoma where we have secured many of these safeguards to human life, our factories threaten to move out to cheaper labor. I am sure you would be ashamed to have our factories move into your State in order that they might sweat out the lives of your children. We should adopt a uniform child labor law such as that adopted by the National Bar Association which would work no hardship on the mill owner and at the same time conserve the child life of the nation. Something of this kind must be done or Oklahoma will lose legislation it has labored for for years. Either all must go forward in human progress or Oklahoma must lose and retrograde. Our factories cannot sell goods in competition with those made by your sweated child. I appeal to your State pride as well as your love of little children to push forward the wheels of human progress in your States. Let it not be said that by your inaction you blocked the wheels of progress in your State and turned them backward in mine.

We are all traveling together the road to silence and eternity. In a little while we will wrap around us a common winding sheet and we will lie down alongside these little children and their helpless mothers . . . and out there in the silence and the stillness we will wait together in a common dust—the exploiter with his money, the little child and tired mother with their broken lives . . . waiting for God and the Judgment Day. . .

May God help you to do your duty before it is too late. (Applause.)

At this point an adjournment was taken until 2:30 o'clock in the afternoon.

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## AFTERNOON SESSION

The Conference met at 2:30 P. M. pursuant to adjournment at the morning session, with Governor Tener, of Pennsylvania, in the chair.

CHAIRMAN TENER—Unless there is objection, we will proceed with the programme set for the afternoon session. The first address is on the subject, "Uniformity of Marriage and Divorce Laws," and I present the Governor of Nevada, Mr. Oddie.

## "UNIFORMITY OF MARRIAGE AND DIVORCE LAWS."

GOVERNOR TASKER L. ODDIE OF NEVADA.

When any law of civil government controverts a law of nature the statute gets worsted. With the best of intentions Congress, or a legislature, may pass a law attempting to regulate, for example, the law of supply and demand. Nature proceeds to nullify the statute with sublime indifference, and as the resultant of the workings at cross purposes of the two laws effects obtain that are often entirely unanticipated. In every instance when we attempt by statute to contravene any natural economic or social law, we find that the conflict between the two is such as to lead to new and perhaps serious troubles.

The problem of marriage and divorce is fundamentally sociological, and that is the only standpoint from which it can be intelligently or profitably approached. The opinions of eminent lawyers and theologians on this subject, who have viewed it from the standpoint of purely abstract precedents, traditions and religious conventions, and not from modern sociological conditions, lack the very essence of validity as a basis for sound judgment.

We are living in an age of extraordinary progress. We have traversed a greater distance in the last fifty years than in the previous thousand years. Science, invention, transportation, exact knowledge, popular education, culture, and modes of living have made such gigantic strides in half a century that some factors in our social adjustments are way out of kelter with the needs of the hour. The status of woman, from that of a chattel and inferior, has advanced to an active and insistent demand for equality in the social scheme. Only the ignorant and the biased deny the justice of absolute equity and political equality between man and woman. Yet our laws deny it, and social convention denies it. In the matter of a woman's legal status, we are far behind even conservative public sentiment, not to mention what may be termed advanced public sentiment. Again, we treat unfortunates convicted of misdemeanors and crimes in many of the States after about the same inhuman manner of the

Dark Ages. The atrocities of the Spanish Inquisition related in Fox's Book of Martyrs are duplicated in fiendishness in twentieth century prison annals and to some extent in almshouses. So I might go on to show the lagging steps of modern progress with respect to all sociological problems. The world has devoted its progressive tendencies to art, invention, commerce, and money making, and left the readjustment of social laws to the haphazard solution of legislatures.

I have said that the only correct viewpoint of the modern problems affecting marriage and divorce is the sociological. The declaration that divorce is inherently an evil cannot be substantiated. There are occasions when it is not an evil. It is probable that an examination of any average thousand divorces granted, even in the States where divorce laws are most liberal, would show only a negligible per cent of cases wherein it were better in the end that no divorce had been granted. Statistics of social morality are, of course, not obtainable, but there are few people of intelligence who would contend that the morals of a State which permits no ground for divorce, or which restricts divorces to the vanishing point, is higher or even on a par with States where the divorce statutes conform more closely to the requirements of natural social law; for it is a sociological fact that no law of man can compel two mismated people either to live together or to conform to the marriage covenants. Inclination, arising from satisfying sexual mating, is the primary cause of fidelity to marriage covenants. Contra, mismating, unless the unhappy unions can be annulled, results in increased infidelity. Where temptation does not happen to enter into the equation, and where one or both parties acquiesce in a greater or less species of martyrdom, the question of morals is negative. But the resultant of statutory law attempting to controvert the laws of nature, forbidding divorce, is necessarily excess immorality and a lowering instead of a raising of the sacredness in which the marriage contract is viewed. This is a principle of eugenics, and which must be given its due value in any correct solution of the divorce problem.

No one will undertake to deny that it is better that a divorce occur between two people who cannot successfully live together, so that both may be freed from a yoke which degrades rather



than elevates marriage, than that the marriage bond be enforced perpetually between them and one or both become adulterers. No social community where adultery is given an undue incentive as a result of the cross purposes of human law and natural law can at the same time maintain any high degree of respect for the sacredness of marriage. Marriage only is sacred and beautiful, and results in the highest of all human blessings and form of happiness, when sexual selection has not been violated in the mating. The great majority of marriages, thanks to the potency of natural selection and human adaptability, are happy, and, even if divorce could be had for the asking, would never be voluntarily annulled.

I do not contend that divorces should be granted for light causes; but I do contend that, as between the two extremes of lax divorces and ultra restrictions preventing divorce, the probability is in favor of the lax divorce system resulting in a better state of social morals than the other. It is contended, with some rather startling proof in support of it, that absolute prohibition in States and communities has resulted in an actual increase rather than a decrease of intemperance. If so, then the object of the law is defeated by its severity. If the object of divorce legislation, as it should be, is to intervene in the dissolution of unhappy marriage contracts so as to improve public morals and render marriage a more sacred institution through the observance of the ethical and moral relationships involved in such union, then the law-making power must take cognizance of the fact that no benefit to society arising from forcing people to live together or to continue united in marriage, who are in acute rebellion against the enforced yoke.

In a social age when woman was a chattel, without legal right, and the husband was the autocrat over her person, property and her children, there was little necessity for divorce, since the wife could be coerced to submit tamely to the husband's pleasure in obeying or breaking the spirit of the marriage covenant. But since wife slavery has gone out of fashion and the Anglo-Saxon woman has begun to assert her natural rights in the social scheme, the demand has come for a new adjustment of privileges. In attaching any particular sanctity to past divorce institutions as meeting the requirements of modern society, we

must not only take into consideration the changed status of woman, but realize as well that past institutions which have brought down to us, in full force, the convention that a woman at marriage is expected to be chaste, while no such expectation relates to the man—two sets of morals sanctified by convention and acquiesced in by church and state—is robbed of a good deal of its inherent validity.

The trouble with most modern legislation of a sociological nature is that we look upon the past with more reverence than we have concern for the actual problem which modern conditions have evolved. We try to cut and patch antiquated precedent to meet some situation which requires modern treatment, from modern standpoints. The business man of today who attempts to run a business along the lines of the methods and traditions of a past generation lands in the bankruptcy courts in short order. Our commercial success is due to the continued application of new principles, new machinery, new methods every day and hour, and the discarding today of that which served yesterday because it has in a day become obsolete. Medicine and surgery, the last quarter of a century, have discarded tradition and are achieving signal success in alleviating human suffering, prolonging life and preventing disease by the scientific study of life and organisms from the ultra-modern viewpoint, with little or no respect for the opinions, practices and medical conventions entertained a generation ago.

On the other hand, the profession of the law, which expresses more often than otherwise the dictum with respect to the civil treatment of sociological problems, is involved in the meshes of hoary precedent and time-honored practice. Criminology is a sociological science; marriage and divorce should be treated from the standpoint of eugenics, the newest science, and yet our bar and courts persist in applying to the crying needs of the hour the musty precedents which served absolutely different conditions in times immemorial.

In States where the rights of women are least respected by the civil law; where, for example, her property by the marriage contract becomes that of the husband; where he can in some instances practically give her children to strangers, irrespective of the outrage upon motherhood; where a man may brutally

mistreat his wife and render her existence a physical jeopardy; where incorrigible drunkenness is not a ground for the dissolution of the contract which binds a clean good wife and mother to an insensate brute—these States, which wholly or in part harbor such laws or lack of laws on their statute books, point with holier-than-thou self-righteousness to the divorce laws of Nevada!

Now I am going to make some statements about the Nevada divorce laws which may be news to you. The existing Nevada divorce law, prescribing the several grounds for divorce, became a law November 28, 1861, fifty-one years ago, and was amended by the addition of one subdivision in 1875, thirty-seven years ago. It has not been amended or changed in any material particular since. It is thus clear that there has been some misstatement of facts by writers and speakers who have repeatedly declared that Nevada passed this divorce law a few years ago in order to commercialize the dissolution of the marriage contracts of other States. That such a remote contingency entered the minds of the authors of the act, fifty years ago, is of course absurd.

The history of the present influx of divorce-seekers into Nevada dates back to its inception about eight years ago. An Eastern husband and wife, very prominent in the financial and business world, desired a divorce. The laws of the State in which they resided only permitted a divorce on substantially one ground. The attorneys of this couple examined the laws of other States and discovered that the Nevada laws were liberal and, what was more to the point, that a six-months' residence in the State by either party was sufficient to establish jurisdiction. Public attention was focused on the case with the result that it served to notify the whole country of the opportunity presented to mismatched couples, living in States where divorce was restricted, to secure relief in Nevada. The migration of divorce-seekers to Reno, however, did not assume any considerable proportions until the last three or four years. Even now it is much less than is popularly supposed. The present year marks the maximum. The most reliable information obtainable is that the Reno "divorce colony" has never numbered in excess of five hundred or six hundred at any one time, or the total of about one

thousand in any one year. A fair percentage of cases brought to trial are denied by the courts. Any one who will take the trouble to compare the total number of divorces granted by the courts of Nevada with the total number of divorces granted by the courts of the country at large will discover that those granted in Nevada represent but a negligible per cent of the whole and cannot have much real bearing on the divorce problem of this country.

It is interesting, however, to learn that an overwhelming proportion of the Nevada divorce colony comes from about four or five Atlantic Coast States, the divorce laws of which are of considerable antiquity and corresponding harshness. Also, that the States with reasonable divorce laws have contributed practically no members to the Nevada divorce colony.

The question here arises: What kind of a divorce law has Nevada? Is it so lax and does it treat the marriage bond so lightly that, at the mere whim or caprice of either or both parties, the courts will hastily sunder the marriage ties? This is very far from the truth. The fact happens to be that the grounds for divorce in Nevada are substantially identical with those recommended by the American Bar Association in its proposed uniform divorce law for the various States. Our statute is one of the half-dozen closest in harmony with this proposed model law of the American Bar Association, while, on the other hand, the States which have contributed two-thirds or more of the influx of divorce-seekers to Nevada are at the opposite extreme.

If we assume that this proposed uniform divorce law of the American Bar Association approximates the necessities of modern social life, it would seem quite imperative for the States where divorce laws are farthest from uniformity to correct their delinquency in this respect. Nevada does not want this divorce business. The people of Nevada are in active protest against continuing as a haven for the people of States which are reactionary with respect to modern demands for a reasonable divorce law. These States seem to find no cause for self-concern in the increasing number of cases of abandonment and the utterly needless cruelty inflicted on those of their people who are mismated, giving rise to excess marital infidelity. They seem to

be content to ignore the true cause and to find a certain degree of self-complacency in pointing to their ancient restrictive divorce laws as evidence of a superior moral regard for the marriage covenant.

Now I have said that Nevada does not want this divorce business. The results of the recent election in the State indicate with some positiveness that the coming Legislature will amend the residence section of the act so that a *bona fide* residence of at least one year, instead of six months, will be required in all cases where the cause of action arose outside the State; and I shall so recommend in my message to the Legislature. There is no demand or desire to modify or change the grounds for divorce, and in this connection I wish to make my point clear that Nevada has no apologies to make to any other State for its divorce laws in respect to the grounds for divorce. During the past few years—not in every instance, but in the great majority of instances—we have performed a signal duty in behalf of human happiness and public morals in correcting the operations of the obsolete divorce laws of certain other States. It was a problem forced upon the State, and not of the State's seeking. We have reaped no real benefit but, instead, decided injury from it. A State which a few years ago was the rendezvous of gamblers and which in one year by drastic legislation, actively enforced, has made itself one of the cleanest States in the Union with respect to gambling, will find no difficulty in purging itself of the present stigma which unjustly attaches to it as a mecca for the mismated.

I believe firmly in uniform divorce laws among the States—but not such uniformity as would mean a backward step for States having rational modern divorce laws in order to secure uniformity with States insisting upon divorce laws predicated on views entertained a century or more ago, and out of keeping with modern conditions. The general adoption of such a measure as that proposed by the American Bar Association would not require any radical modification of the Nevada law to conform to it, while it would effect an almost revolutionary change in the laws of certain of the older States.

In concluding, I wish to repeat that in my belief the problem of good divorce legislation must be predicated on the modern

sociological viewpoint as against any other. It is not a problem in which the church, with dogmatic opinions regarding marriage and divorce, can offer any suggestion which will work as against the immutable operations of natural social law. We have advanced in intelligence beyond the idea that there is anything essentially holy, and therefore morally irrevocable, in a marriage which would, in extreme example, condemn a pure woman to a lifelong unwholesome existence with a diseased and bestial husband, tending to degrade her to his level, when, by act of law, such a profanation of the sacredness of marriage can be ended. The church does not hesitate to divorce its ministry when occasion arises. It would seem that even from the orthodox viewpoint of marriage there is some real analogy between the two cases.

Hand in hand with proper divorce laws should be improved marriage laws. I believe that not only should a physician's certificate be required as a prerequisite to the issuing of a marriage license, but that notice of the application by publication for a limited period should precede the issuing of the license; with power residing only in a district judge to waive the period of publication on satisfactory showing that the parties may properly marry and that there are valid reasons for its immediate consummation. (Applause.)

CHAIRMAN TENER—You are all interested, I am quite sure, in the address which you have just heard from the handsome bachelor Governor of Nevada, one whom I am sure is in position to know with authority. The discussion of this subject will be continued by an address this time from the Governor of Idaho, Mr. James H. Hawley.

#### “UNIFORMITY OF MARRIAGE AND DIVORCE LAWS.”

GOVERNOR JAMES H. HAWLEY OF IDAHO.

Mr. Chairman and Gentlemen of the Conference:

Universal education is the saving salt of our modern civilization. The founding of the free public school assured the destiny of mankind. The progress of the race in the century that

has passed since that momentous event has surpassed the previous record of all ages. So alert are scientific investigators, psychological experts, public economists, philosophers, essayists, inventors, discoverers and all leaders of thought in every avenue of human endeavor that new problems and old ones in new form confront us with each rising of the morning sun.

We have learned to have faith in free institutions, faith in ourselves, faith in the people, faith in mankind, and above all, faith that under God's guidance, the race will come into the glory of that Golden Age that has ever been the theme of song and story since first the imagination of man took flight upon the wings of fancy.

Although there is seemingly no connection, I was driven to this generalization by a very cursory examination of the subject of "Uniformity of Marriage and Divorce Laws," assigned me for this occasion. I say cursory examination for the reason that in this presidential year, with a vigorous campaign of my extensive inter-mountain State in addition to the usual duties of chief executive, I have been a very busy man, indeed, and have been able only to seize an odd moment, now and then, for the preparation of this paper. Like all men interested in public matters and as a lawyer of many years' experience I had a general and more or less special knowledge of the divorce evil and of the diversity in the laws upon the subject of our several States, but I claim no comprehensive grasp of the subject and soon became amazed at its magnitude and lost in wonderment that such conditions should be permitted to endure. Then in rapid detail came in view many of the very pressing problems of governmental affairs until my vision enlarged to note that innumerable are the issues that confront mankind in all the branches of knowledge and research,—and I was fain to take refuge in the optimistic view that all is well with the race and that increasing power and knowledge will come with the ever onward march of civilization.

My preliminary examination of the subject and my two years service as chief executive of Idaho convince me that a great need of the various States, and, especially of the younger States, is an improvement in the method of making laws. The present system of taking at stated periods from the body politic a given

number of citizens chosen chiefly through partisan action by the more or less devious methods of politics—and in many instances utterly regardless of qualifications—and assembling these factors together for a limited period, with each anxious to make a record by the introduction of bills, is certainly a very crude mode of procedure, and one can only wonder that the results obtained have been as satisfactory as they have been.

In this connection, although somewhat foreign to my subject and, perhaps entrenching upon the subject assigned another, I cannot refrain from quoting a recommendation of Governor Lee Cruce, of Oklahoma, to the incoming Legislature of that State, as of special interest. After calling attention in forceful language to the crudity of the present system in law-making, Governor Cruce concludes with the following recommendation:

“I, therefore, recommend to you that you establish a legislative bureau composed of three men to be appointed by the Legislature or by the Governor, whose entire time shall be given to studying the laws of this and other States, and to gathering for the use of the Legislature when it is in session, all information that will be needed by that body. That it be made the duty of this commission when requested by a member of the Legislature, to draft any law suggested, and to furnish members of the Legislature with all the information available dealing with such proposed measures. That it be made the duty of this commission to draft all bills that are to be initiated under the initiative provision of the Constitution, and to give advice to those interested in such measures that will enable them to proceed to initiate measures proposed by the people. That in addition it be made the duty of this commission to keep the laws of Oklahoma properly assembled, and as often as the Constitution requires properly to classify and codify them. The total expense of this commission, kept in constant service for the people, would not cost as much as it is now costing to have our laws codified under an act of one of the past Legislatures.

“This commission could also take upon itself the work of helping to bring about legislation in Oklahoma that would be uniform in character with legislation in other States upon similar subjects. This reform is of the highest importance, not only to Oklahoma, but to other States in the Union. Under our modern



commercial development, the interests of the States are so interlaced that there must be more uniformity of laws governing operations in the financial world. If the States do not give the necessary relief along this line, the time will inevitably come when the people will demand that the federal government take unto itself the power of enacting such laws as the public good demands. If the rights and powers of the State are to be preserved, the laws must be brought into greater harmony than has heretofore existed. This commission could do much valuable service in that direction."

I regard this suggestion of Governor Cruce as worthy of great consideration as a working plan for the securing of uniform legislation, and in giving to each State the combined wisdom of all. In the long run, under the general rule of the survival of the fittest, the best laws in each State upon a given subject would be adopted in all of the States with such modifications as local conditions would make necessary. And in the consideration of uniform legislation the best method of securing such uniformity should be considered as well as an endeavor to reach an agreement upon the laws to be granted.

To the subject in hand:

The necessity for uniform laws governing marriage is not so great as for uniform laws upon the subject of divorce, and only, in fact, as an insurance against the divorce evil are we primarily concerned in the marriage contract. Certain general fundamental requisites are the basis of the marriage laws in all civilized countries and the divergence of the laws of the several States of the American Republic upon this subject are not so potent for harm as are the differences in the divorce laws, and with proper and uniform divorce statutes the marriage laws could very easily be adjusted.

The usual requirements of the statutes governing marriage rightly comprehend certain well-known and general principles and differ only in minor details. Briefly summarized these include:

Voluntary consent of the parties.

Age of consent.

Prerequisites regarding license, solemnization, etc.

Mental capacity.

Physical capacity.

Legal capacity.

In the latter subdivision there is, in a general way, embraced, of course, all of the others, but it is used more strictly in a limited sense, as defining certain well known requirements not otherwise enumerated.

Voluntary consent of necessity is the basic principle of the marriage contract and is so recognized in all the laws upon the subject and is ever a part of the ceremony of wedlock. There could be no difficulty in incorporating this requirement in a uniform marriage law, otherwise than in the case where the man marries under threat of prosecution for a statutory offense. This would be a minor matter affecting only a few pitiful cases.

Upon the question of the age of consent there is at present a wide divergence in the requirements of the laws of the various States, ranging from 12 years in the case of females and 14 years in the case of males in the States of Kentucky, Louisiana, Massachusetts, Tennessee and Virginia to 21 years for both sexes in the States of Florida, Pennsylvania and Rhode Island. The consensus of opinion appears to be that the age of consent should be placed at that time of life when physical growth reaches completion or nearly so, and that it should not be fixed at a time of life when the youthful body is still in process of growth and is yet immature. In the broader sense it is not essential that the States should have an absolutely uniform age limit,—the real point in this regard being rather for decision of physicians than of law-makers, and such an age fixed as would best tend to the welfare of the race. It is worthy of note to state that all recent legislation upon the subject tends towards the raising of the age towards 21 years.

It would appear the essentials of a marriage license law should be so well understood that one could be easily drafted that would appeal to the law-making powers of the several States, but while such a proposition was broached at the National Congress on Uniform Divorce Laws held in 1906 no action was taken and most strenuous objection was made to the draft submitted by the committee on resolutions. The salient features of these resolutions required two weeks publicity prior to the issuance of license; the full names of the parties and their respective places

of residence; that no license issue where either applicant is a minor, without the written consent duly attested of parents or guardians; and that no marriage be solemnized without the presence of suitable witnesses, nor except upon license duly issued. These provisions, in the main, will commend themselves to investigators of this branch of the subject.

As to mental capacity no one would think of drafting a marriage law without provisions excluding those afflicted with idiocy or insanity, and the matter needs no discussion.

The subject of physical capacity is one that is receiving the attention of the deepest and most profound thinkers of the race, and we can expect in the next few years what would now be considered as very radical legislation affecting this branch of the marriage laws. And why not? Which recalls Senator Borah's crushing admission to a critic of some proposed advanced legislation looking to the welfare of children, to the effect that the government proposed to do for children what it had already done for calves and lambs!

The public prints are devoting much space to the discussion of sex-hygiene in its various relations to the human family; and law-makers are busily engaged in putting the result of increasing knowledge into statute law. Tabooed as this subject has been in the past and not altogether out of a false modesty, for despite the necessity for a more thorough understanding of nature's laws, men and women of the present age shrink from imparting this information to their children or from discussion in a promiscuous audience, it is becoming evident, as stated, that the immediate future will make a decided advance that will tend to the uplift of humanity. While this is the universal and well defined trend of modern thought it would be idle to suggest as a basis for a uniform marriage law the consideration of any other than the well established grounds now the basis of the more enlightened laws in the American commonwealths. Further exposition of this particular theme would be out of place in a general paper of this character, as it is a field for the most careful investigation by specially trained experts devoting their lives to the welfare of humanity.

Another subdivision of the subject in hand is given as legal capacity. Herein come the provision against miscegenation,

consanguinity and affinity; and also such prohibitions as the denial of the right of remarriage of the guilty party where divorce has been granted upon certain grounds. There should be no difficulty in our law-makers framing uniform statutes covering this phase of the subject.

I deem it unnecessary to enter upon a discussion of that branch of the question dealing with fraud, ratification, bigamy and lesser subdivisions as not germane to the main issues involved, and I fully realize that this review is only elementary, but, as such, may be the basis of a more thorough analysis in a general discussion.

Turning from marriage to the kindred subject of divorce we are confronted at once by a gigantic evil that has grown up in our modern civilization. With the divorces in some communities numbering as high as a ratio of one to three marriages, and with the general ratio throughout the nation increasing with alarming rapidity, and some of the States seemingly endeavoring to build up a legal industry by means of laws that tend to make divorces easy of attainment, we realize the time is at hand for drastic legislation and united action.

Every one with any degree of knowledge of our form of government must know that the federal government has no jurisdiction and should have none in matters of such purely domestic concern as the marriage status, and that to give such jurisdiction it would be necessary by constitutional amendment to change in this respect the relations of the States to the national government in a most radical manner that would appeal only to the most extreme advocates of a centralized government. So it is essential that in seeking reform the appeal must be made directly to the law-makers of the several States, and every effort put forth to secure legislation along certain uniform lines covering the main issues involved.

Personally I am opposed to divorce, believing absolutely in the indissolubility of the marriage bond except by death, and I regret I did not have the time nor the data at hand for a study of the marriage relation in the State of South Carolina, where, as I understand, divorces are not granted, and if the Governor of that State is present at this Conference, after the repetition of his famous remark to his colleague of North Carolina, I feel

certain the Conference would be delighted to hear from him upon conditions in his State relative to this perplexing issue. While my personal views are what they are I concede to others the widest liberty of honest opinion, and am ever ready to bow to the combined wisdom of my fellows. One remedy that has been suggested and which would certainly mitigate the most glaring evils of our divorce laws is to limit the jurisdiction of the courts. Each State should restrict the remedies of its divorce statutes to its own citizens, with a necessary safeguard for the protection of the wife in re-establishing a home in her original State of residence. The reason for this latter proviso being that it might become necessary for her to seek a home among her relatives and friends.

I would urge as the basis for any uniform law governing divorce the adoption of this salutary provision. There can be no valid reason why the courts of one State should be encumbered with cases the causes for which arise in another State, and no State should permit its courts to become the agency for washing the dirty linen of another commonwealth. To do so is to invite the slurs and contempt of mankind. Closely allied with this proposed remedy is the Massachusetts statute that provides:

“If an inhabitant of this commonwealth goes into another State or country to obtain a divorce for a cause which occurred here while the parties resided here or for a cause which would not authorize a divorce by the laws of this commonwealth, divorce so obtained shall be of no force or effect in this commonwealth.”

While this statute is correct in principle and is a corollary of the other proviso which limits jurisdiction to the citizens of a State, nevertheless, standing alone it tends to defeat one of the most important objects which we wish to obtain by uniform divorce legislation, for a much desired object is to secure such laws as will make a divorce valid in one State valid in all.

There is a wide divergence of opinion as to whether there should be two classes of divorces—the absolute dissolution of the bonds of matrimony and the more limited degree of legal separation from bed and board. The leading text books are inclined to frown upon the latter as tending to lead to unchastity and it is recognized, I believe, in only twenty States of the Union. The

National Congress of Uniform Divorce Laws, however, gave the seal of approval to this remedy and it must be apparent to anyone that with a number of the States giving cognizance to such legal separation that it would necessarily have to be incorporated in any system of proposed uniform legislation in order to secure general adoption.

The State of New York recognizes only the one cause of infidelity as grounds for absolute divorce and I am of the opinion that the other States should aim for this high standard. I take it for granted that the object of uniform divorce statutes is to make it more difficult to secure divorce and not to lessen the standard. It is elementary that there are three parties in all divorce proceedings and the rights of the State in recognition of the rights of society must remain paramount to the rights of the immediate individuals concerned. And it is from this latter viewpoint that legislators must approach the subject.

Taking it for granted, then, that the ultimate aim of those desirous of checking the recognized evils of our present varied divorce laws is to more thoroughly safeguard marriage and by the extent that legislation can effect reform through more stringent codes governing divorce, and this from the standpoint of the State's supreme interest in the matter, our purpose should be for a unification of legislation upon as high a standard as possible. If the two classes of divorces can be made part of a uniform code, it would appear that adultery should be the one sole cause of absolute divorce. Whether this basic difference is adopted or not the causes enumerated in the statutes of the various States upon which there are substantial agreement are sufficiently comprehensive for a uniform code that would appeal to the good judgment of mankind.

The ante-nuptial causes for divorce or more properly speaking for nullity of marriage, such as fraud, coercion, consanguinity, should all be provided against in the marriage laws, thus making the marriage void or at least voidable from the beginning; and these need no other reference in the expression of my views than I have already given under the first heading of this subject.

For post-nuptial causes the authorities are agreed and as I have stated the legislation of the several States practically provide for divorces upon the following grounds:

Adultery.

Bigamy.

Conviction of felony.

Intolerable cruelty.

Wilful desertion for two years.

Hopeless insanity of husband.

Habitual drunkenness for two years.

It would appear that this list of causes would be sufficient to practically cover all cases requiring relief and would keep the courts sufficiently busy, and it is put forward by leading authorities as the very best possible basis for a uniform divorce code.

It must be apparent, then, as I stated at the outset, that the limitation of the jurisdiction of the courts to cases arising among the citizens of the State in which relief is sought would go farther to the remedying of the evils complained of than would changes in the fundamental law covering the grounds for divorce.

It is unnecessary in a brief review to enter into particular details as to the causes herein enumerated; as given they express not my opinion, but the combined wisdom of those who have given the subject of divorce and its attendant evils deep study and careful consideration, and will commend themselves to all interested in the subject.

As to adultery and bigamy, there can be no qualifications, as they are direct violations of the spirit and the letter of the marriage contract. Upon the subdivision, conviction of felony, it is urged that this should not be a cause unless followed by continuous imprisonment for at least two years, and unless the conviction was through trial by jury in a State or foreign country wherein the laws are practically in harmony with that of the State in which the divorce is sought.

As to insanity as a cause for divorce, the most advanced thinkers would limit this provision to hopeless insanity of the husband, and to this extent it may have to be recognized, although some old-fashioned folk like myself would regard the marriage tie as binding in sickness as well as in health and that insanity

is but a disease; and the only argument that can properly be presented in favor of this cause for divorce is to prevent the birth of children liable to be tainted with the same disease. The care of an insane wife should devolve upon the husband just as much as though her ailment were paralysis or some other equally great malady of the body.

Desertion and habitual drunkenness should only be cause for divorce if persisted in for a stated period—the consensus of opinion placing this period at two years.

Some minor and yet necessary details for a uniform divorce code deal primarily with court procedure and can be briefly enumerated as given by the authorities upon this branch of law:

No divorce should be granted unless the defendant has been given full opportunity for his day in court, if possible for such notice to be served.

A person named as co-respondent should in all cases be given an opportunity to interplead.

A power of attorney, duly acknowledged, should be before the court, and not before any delegated representative of it.

Affirmative proof should be required aside from any admission on the part of the respondent.

There should be a lapse of a reasonable time, preferably at least one year, before the decree should be entered to permit the remarriage of either party.

Under no circumstances should the children of the marriage union be bastardized excepting as they are the offspring of bigamous marriage or the facts permit of no other recourse.

I have endeavored most briefly and I feel only in a most elementary manner to present a working basis for a uniform law upon marriage and divorce—and not entered upon the discussion of the great moral issues involved which makes it imperative that some check be presented to the evils of the present conditions which threaten the very existence of the most sacred of human relations.

Readers of the public prints a few weeks since were shocked at the conduct of two well educated young people of California who entered the marriage state after having signed articles of agreement which robbed the relationship of all its sacred ties—and made the contract less than one that would be effective in



a deal for the transfer of real estate. For such a union there can be but one outcome, from the altar to the divorce court—and, surely, the State, whose paramount rights have been disregarded, must stamp the seal of its condemnation upon such travesties and while the State exercises all of the functions of its law-making power in the enactment of legislation to preserve the sacredness of the nuptial bond, an appeal must be made to all the moral influences of bar, school and pulpit to the end that through the quickening power of enlightened sensibilities the moral law underlying all just human laws will be justified and hallowed and become the active guiding force in all of the relations of life. (Applause.)

CHAIRMAN TENER—The Conference is indebted to you indeed for the able manner in which you have handled the subject. All that you have said will be a matter of record in the report of this meeting. I am sure that States not represented, as well as those represented, will be interested in the paper which you have read this afternoon. Governor Eberhart, of Minnesota, will now address the Conference on the subject, “What the State can do to Check the Drift of Population from Farms to Cities.”

#### “WHAT THE STATE CAN DO TO CHECK THE DRIFT OF POPULATION FROM FARMS TO CITIES.”

GOVERNOR ADOLPH O. EBERHART OF MINNESOTA.

Mr. Chairman, Ladies and Gentlemen:

We hear a great deal in recent years of the slogan “Back to the farm!” In it seems to lie the only sane and wholesome solution of the problem facing the underpaid and the unemployed of the cities. But in answer to its call this vast army replies, “What inducement can you give? Work and wages are all very well, but in offering these you rob us of the life and movement, the cheap shows, moving pictures, and the jostling fellowship of the cities. What can you give us to

balance the dullness, the lack of recreation and community of amusement?"

In my own State of Minnesota, this question was brought to me very forcibly a few years ago, during a search for farm laborers among the horde of unemployed in our larger cities. They wanted work and they needed money, but the country and the farm spelled only monotony. No entertainment, no white lights, nothing but labor and social stagnation. "We'd rather stay in the city and struggle, than go to the country and have nothing to do but work," they said.

I then realized that the solution of the problem of Minnesota's unharvested crops was not the simple one of merely transferring idle men from the cities to the farms. It lay deeper than that, and then and there I resolved to devote the next few years of my life to endeavoring to stop the drift of population from the farms to the cities and to turn back at least a portion of the ebbing tide of laborers toward the fields of our State.

Partly through this resolution of mine but mainly through the work of her own untiring citizens, Minnesota has already advanced considerably in the solving of the problem. The aim has been education in securing larger returns from the soil and advantages obtained through the extension of the use of rural school houses into social centers.

I had been elected Governor but a short time, when it was borne in upon me that although the population of the State had increased tremendously in the last ten years, the number of children in the country school had decreased in an even greater inverse ratio. The reason for this appeared to be the same that caused the dearth of men in the country. The children were drifting to the cities and taking business courses in preference to farming,—not because they could make more money, but because they were lured irresistibly by the lights of the metropolis and the pleasures that are to be found there.

The question that arose in natural sequence to this discovery was: How to combat the social life of the towns by making the country more enjoyable? In this comparatively new country of ours, towns are few and far between and even

dwellings are often miles apart. How and where, then, make a social center which would offset our rival the city? But two institutions presented themselves as a nucleus for social life,—the church and the school. The use of the former, however, was not feasible, owing to the scarcity of preachers and lack of educational facilities. I therefore turned to the school and there I found the true answer to the problem.

Fortunately for my experiment, Minnesota has a school fund of about \$30,000,000. Even with all our schools and agricultural institutions, we barely use up the interest, and as the principal is increasing steadily, it should amount in about fifty years to more than \$150,000,000, to be invested for all time as a guarantee of liberal education to every child in Minnesota. Two years ago, the Legislature appropriated special aid for the construction and maintenance of these community schools, and laid down a scale whereby each was allowed \$1,500 to help erect a building and \$2,100 a year (\$2,500 for an agricultural high school) to aid in maintaining it. The \$1,500 did not come anywhere near covering the initial cost of the building, but it was a help and the additional maintenance proved a considerable inducement.

The main achievement to which our efforts were directed was in the consolidation of the scattered rural schools into one social center, around which we could build up that "life" which the farm-workers crave and at the same time teach the children the dignity of farming and its munificent returns.

It did not take me long, however, to find that I must fight a rock-ribbed, deep-seated sentiment surrounding the "old red school-house." During my first year as Governor I visited some thirty county fairs and spoke on this subject of improving the school system of Minnesota for the benefit of the farmers and I have utilized the opportunities of the well-attended county fair for that purpose, ever since.

I have had to use two sets of arguments, however, one for the farmers and one for the children. The former must be appealed to through their pocket-books, the latter through their imagination. Many a grizzled veteran of the soil has said to me, "What was good enough for me is good enough for my children."

Patiently and with much reiteration I had to show them that since their school days the world has advanced a great deal and I continually laid stress upon the widespread dangers of slipshod farming. One of the most beautiful and yet one of the saddest poems in the English language is Goldsmith's "Deserted Village." But none the less sad in its final picture, and much more far-reaching in its results, is the story of the "Deserted Farm" which runs through the pages of our United States census volumes, throwing a shadow upon the bright record of American progress and prosperity. I explained, too, that agriculture, from being a self-taught trade has taken its place among the sciences of the world and that the greatest opportunity today which awaits the young man of brains, scientific knowledge and business energy is to make the farm yield its greatest possible results. I urged the point that farmers elsewhere have perfected methods of intensive farming and that education along the lines of practical scientific agriculture must be one of the chief factors in stemming the tide of population from the country to the cities, but that this education was impossible under the old system of small isolated schools containing at the outside not more than a score of pupils.

Again, I pointed out to the farmers how their children, discontented with the uneventful life of the country, were clamoring to go to the city where they would in all probability lead a less comfortable, less healthful life and secure in return less remuneration; how the establishment of the "new" schools would create a center of attraction which would keep them upon the farm and in addition instruct them in better methods of forcing the wealthy soil of Minnesota to give up the vast treasures contained within it. I promised the children social opportunities and even moving picture shows in the improved schools.

Today the attendance in the Minnesota schools ranges from 75 to 150 each. The former attendance at the small schools was from 5 to 25. The children are conveyed to and from the schools in covered wagons containing foot-warmers, so that the young folks won't get frost-bitten in our severe Minnesota

winter, and in consequence there has sprung up a regular business of transporting school children from their homes to the consolidated school and back again. This system has incidentally brought about the rapid and permanent improvement of the public highways.

And now, less than three years after the beginning of the movement, Minnesota has 61 of these consolidated rural schools, besides 30 agricultural high schools and about 150 applications for institutions of this kind are pending! The scheme has taken root and grown so rapidly that it is difficult to procure enough teachers and we are now trying to induce teachers from other States to come and teach in the finest system of rural and agricultural schools in the country. From three to five teachers are needed in the ordinary schools and a larger number in the agricultural institutions, and in addition to these we have a system of "Traveling Instructors" connected with the University Extension work who visit the schools regularly and talk to both pupils and parents upon all subjects of interest to a farming community.

This system has proved infinitely more economical than the old. Every teacher in the new schools has a graded class, possible only in a school whose pupils number more than fifty, so that every instructor is enabled to give each class periods in recitation of half an hour or more, which would be impossible with a small or ungraded class. In this manner competition is an element among the classes.

We find also that it is much easier to obtain instructors in the new schools than the old, because these institutions form the nucleus for a circle of from three to a dozen teachers, who, mingling together constantly, do not become a prey to the loneliness which must inevitably depress a single teacher in a strange community.

The physical benefits which accrue to the pupils under the new order of things is one of its chief assets, for I had found that very often light and ventilation in the small school houses throughout the State were far from good. Pupils were seated without regard to light and sanitary conditions were frequently quite bad. These evils are entirely removed in the

newly built and scientifically constructed school houses, in addition to which the pupils are instructed as to their own physical welfare and hygiene, teaching which they rarely received under the old system.

In fact, the education of the farmers' children is practically the same as that of the city children, in addition to being more practical. Instruction is given in agriculture, manual training, sewing and cooking. Teachers in all these branches are provided by the State and I find that the children are gaining a far higher idea of the dignity of labor and are losing much of their former desire to go to the city and be so-called "ladies" and "gentlemen," rather than farmers and farmers' wives.

But the new order of things is not only helping the children, it is also doing much for the grown people, in keeping them on the farms and nullifying the lure of the city. One of the first things which the State Department of Education provided for in the "consolidated schools" was the establishment of classes for the farmers themselves where they could have the benefit of the latest discoveries of science for tilling the soil and could be taught to increase their output, adding materially to their own benefit and to that of the country in general. Experts from the University of Minnesota and the State Agricultural Colleges tell them what crops are best adapted to the soil in their district and instruct them in the latest methods of "intensive" farming and deep plowing. As a result, the crops of Minnesota have already begun to increase at a rate beyond the average.

Lessons are also given in the testing of milk, butter, corn and grain; the increase of the percentage of butter-fat in milk; the enlargement in the size of the grains of corn or wheat in relation to the increase of the entire crops; and greater soil fertility. But the idea which more than anything else will keep the farmers at home and prevent their young folks from drifting cityward, is the "social idea." The school houses which used to be dark and untenanted at night are now ablaze with light and gay with the sound of music and song. Illustrated lectures, moving pictures, concerts, athletic entertain-

ments and the like are held in these schools and each neighborhood is thus enabled to provide its own amusement at a minimum cost, something which was impossible when there was no common meeting place and no experienced leaders and teachers to organize the social movement. Libraries of current and classic fiction have been started, pianos installed and musical entertainments have been arranged by practically all the young people as a most satisfactory way of passing the long winter evenings. In the warmer weather the boys and young men will be trained in athletic sports and competition between neighboring towns and schools will be encouraged. At the same time the feminine portion of the schools will be given lessons in the proper care of the home, interior decoration and so on; and classes in geology, botany and other "out-door" studies will be organized.

Our present plan is to have the school boards of every community own a number of educational moving picture films which may be rented to other schools for a nominal fee, just sufficient to pay the cost of their transportation and upkeep; and I hope that through the medium of these "movies" that the outlying districts of my State will be educated in scenes which they would otherwise never see. I sincerely believe in the educational value of moving pictures when properly supervised and I think that their introduction into Minnesota schools will be a great help in keeping the young people at home, for entertainment is what they crave, and the combination of social opportunities, concerts and moving pictures will give them all the healthful entertainment which they would find in the cities.

In this way Minnesota is grappling with the problem of scarcity of labor in her huge harvest fields, and I can see no solution but this one of making country life more attractive and I believe the Minnesota method to be the only practicable one. Although we have been using it but three years, the farmers throughout the State are intensely gratified at its results and are clamoring for more schools. The cost is negligible. It might be more expensive in a State not fortunate

enough to possess a school fund as large as that of Minnesota. But is it not worth the cost many times over? (Applause.)

CHAIRMAN TENER—Governor Hadley, of Missouri, will also now deliver an address on the same subject.

“WHAT THE STATE CAN DO TO CHECK THE DRIFT OF  
POPULATION FROM FARMS TO CITIES.”

GOVERNOR HERBERT S. HADLEY OF MISSOURI

Mr. Chairman, Ladies and Gentlemen:

Some one has said that if the Irish potato had been introduced in France a number of years before the French Revolution, that great human protest against injustice and oppression, in all probability, never would have occurred.

While this statement, like all generalizations, should be accepted with a degree of allowance, yet it is true that the ability of the people to secure, through their labor, the food necessary for the support of themselves and their families affects, in a most important way, the social and political conditions under which they live.

In this country, we have enjoyed not only the Irish potato, but we have also enjoyed greater natural resources and a larger supply of cheap, and, in many instances, practically free, land, for all who are willing to occupy it and cultivate it, than has been enjoyed by the people of any civilized nation in the world. On account of this fact, we enjoy the further distinction of being the only civilized nation in the world in which all classes of people eat the same kind of food. Ours is the only country in which the rich and the poor, the high and the low, eat white bread and red meat. No more certain preventive of class distinctions or of castes in our society could exist than to have all the people eat the same kind of food, and no influence could be stronger in producing classes or castes in society than to have the few enjoy a kind of food that was not available for the many.



Henry IV, the best of the Bourbon monarchs, said that he wished it were possible for every person in France to have, at least once a year, on Christmas day, a fowl for his dinner. The contrast in the conditions of life as they existed then and as they have existed in this country is indeed a striking one.

But when we examine the statistics which tell the story of the increasing consumption and, from a comparative standpoint, a decreasing production, an increasing importation and the decreasing exportation of foodstuffs, we are brought face to face with the proposition that the present conditions of life cannot be expected to continue unless we exert ourselves, along intelligent and scientific lines, to increase the productivity of our cultivated soil and to use, in an effective way, the unused and uncultivated lands throughout the nation. Further, the increasing cost of the necessities of life indicates, beyond all question, that there must be a readjustment of salary and wages to meet this added increase in the cost of living. There must be an increased production so as to cheapen the necessities of life, or else that portion of our population that makes its living by its labor, which is usually unable to accumulate enough to provide against the infirmities of age or the incapacity that comes from accident and disease, will soon cease to enjoy the experience of having meat as a usual article of diet.

While I agree with President Taft that there is no occasion for us to get unduly excited over the fear that we may wake up some morning and find there is not enough food in the country for breakfast, no one familiar with existing conditions can fail to realize the importance of the problem with which we have to deal. This problem is not a problem of the cost of high living. It is a problem of the high cost of ordinary living, as any housewife or head of a family, who is familiar with the difference in prices today and ten years ago, can readily testify.

Various explanations have been offered of existing conditions. The increased cost of living has been ascribed by some to the existence of combinations and trusts; by others to the increase of the gold supply, which has brought an increase in the cost of the necessities of life, without a corresponding increase in the purchasing power of a day's labor. And the failure of supply to keep pace with demand, of increased production to keep

pace with increased consumption is, of course, another explanation which is offered by those familiar with this phase of the situation. There is, of course, some truth in all of these explanations. It is entirely clear that in many instances combinations and trusts have, by artificially and arbitrarily increasing the price of that which they manufacture and sell, levied a tribute upon the industry and frugality of the American people by increasing the cost of that which the people must buy.

It is also true that the discovery of gold in Alaska and the golden stream which has flowed from that territory into our national financial system has decreased the purchasing power of a dollar and that the wage and salary scale has not advanced proportionately as fast as has the cost or the purchase price of the necessities of life; it being an economic law that with the decrease or increase in the value of money, wages is the first to decline and the last to advance.

But while there is truth in both of these explanations, it is entirely true that the power of combinations and trusts to defeat the operation of the law of supply and demand can be checked, if not destroyed, by proper exercise of the authority of the nation and of the State. A readjustment of the prices of labor and the necessities of life can, and must, in time, be effected. But these measures of correction will prove ineffectual if the American people continue to produce less and eat more; continue to sell less of foodstuffs to the other nations of the world and to buy more of foodstuffs from the other nations of the world. In order that the importance of this phase of the problem may be properly understood, let me give you the statistics which permit of no difference of opinion as to the seriousness of the problem that now confronts the American people.

During the last ten years the average increase in price of the products of the farm, which constitute, of course, our principal food products, has been approximately 40 per cent, while there has been a decline in the cost of the necessities of life of only molasses and sugar, if molasses and sugar can be properly classed as necessities of life. Notwithstanding the fact that the value of our annual harvest has shown a steady increase from year to year, until it has this year reached the enormous sum, as estimated by the Department of Agriculture, of 9 billions of dollars,

an amount almost beyond the comprehension of finite minds, yet in 1900 the total value of agricultural exports, not including cotton, was \$601,627,552, while in 1910 it had fallen to \$420,-177,182. In 1900, the value of our exports of foodstuffs was \$546,101,944, and in 1910, it had declined to \$355,579,995, a decline in each case of nearly 25 per cent. In 1900 the total value of our exports of meat, meat animals, dairy products, grain and grain products was \$478,284,834, while in 1910 it had declined to \$268,976,602, a decline of over 25 per cent in our exports of those products of the soil which constitute the principal part of our necessities of life.

In 1900 the total value of the agricultural products imported into this country was \$420,139,288, while in 1910, the value of agricultural imports had increased to \$687,509,115; the value of the total imports of foodstuffs in 1900 was \$226,864,555, while in 1910, the total value of the imports of foodstuffs was \$317,-230,585, an increase in each case of over 25 per cent.

Thus, we see that, leaving out our exports of cotton, the balance of trade was largely against us in 1910 upon agricultural products. Upon agricultural products we paid to the nations of the world over \$250,000,000 more than was paid to us by the nations of the world. While upon foodstuffs alone the balance of trade in 1910 was only \$38,000,000 in our favor, ten years earlier the balance of trade in foodstuffs was \$320,000,000 in our favor.

And these conditions exist, notwithstanding the fact that we have in this country, under cultivation, less than 500,000,000 acres of our soil, and that which is subject to cultivation, in the majority of cases, is cultivated in such a way as to decrease, rather than increase, its productivity. It has, with a large measure of truth, been asserted that we have few farmers in this country; that we have about 8 millions of people who are engaged in the mining of the soil, but comparatively few who are engaged in the proper cultivation of the soil. For this reason, we find that the average production of wheat, of oats and of barley in this country is only about one-half of what it is in the European nations. Thus, the average production of wheat in the United States is less than 16 bushels per acre; in Belgium, it is 40 bushels to the acre; Denmark, 38; England, 35; Holland, 32; Germany, 30;

Sweden, 30; while little Norway produces an average yield of nearly 10 bushels to the acre more than is produced in the United States, and the average production in Austria and France is 25 per cent in excess of the average production in this country. Substantially the same proportion obtains in the production of barley, oats, rye and potatoes. The United States is, of course, the great corn producing nation of the world, and yet we produce far less of this great product than we should and could produce by proper scientific methods of planting and of cultivation. And there is the same disparity of production between those fields of corn which are scientifically planted and cared for and those which are not that there is in the production of wheat, oats and barley in this country and the countries of Continental Europe.

What we could accomplish along the line of an increased production by the proper cultivation of the soil now subject to cultivation is, therefore, at once apparent, and what we could accomplish by the proper cultivation of the soil not now subject to cultivation almost surpasses comprehension. It has been estimated that there are in the valley of the Mississippi alone 20 millions of acres of swamp and flood lands which are capable of being reclaimed so as to produce a certain annual harvest. This land, if reclaimed and properly cultivated, would yield enough of agricultural wealth each year to support the entire population of the Mississippi Valley and leave the balance of that vast area for the production of surplus products. This may seem an extreme, if not a startling statement, and yet, it is a fact that Egypt, during the palmiest days of her civilization, never had under cultivation in the Valley of the Nile to exceed 6 millions of acres, which supported 10 millions of people. Holland reclaimed from the sea two and a half millions of acres, which supported 8 millions of people. And, yet, the swamp and flooded lands of the Mississippi Valley are as rich as the submerged lands of Holland or the Valley of the Nile. In truth, it can be asserted that the development of Continental America has just begun. Take my State for example, and I use Missouri because she is the oldest of those States lying wholly west of the Mississippi to have been admitted to the Union, and has been a settled and organized commonwealth for nearly 100 years. We have

within our borders 21 millions of acres of land, nearly one-half of our entire territory, which has never been touched by a plowshare, and a far less proportion of the States of Arkansas, Texas and Oklahoma has been cultivated, and all, or most all of this land is capable of cultivation without the expense of irrigation.

The problem that confronts us, therefore, is as to how to increase production, and that problem, in turn, involves the solution of the problem as to how to get people and competent people onto the land. The proper cultivation of our farms necessitates smaller farms, or better cultivated farms, and smaller farms or better cultivated farms mean, of course, more people working on the job.

Notwithstanding the existence, and the general recognition of the existence, of the conditions to which I have referred, we are confronted with the astonishing fact that the census of 1910 shows the steady drift of population from the country to the towns. In the ten years that elapsed from 1900 to 1910, there was an increase of 11,826,000 in our urban population, and an increase of only 4,151,000 in our rural population. In the State of Missouri there was an actual decrease in the rural population, all the increase in population being in the cities of the State. What is the reason for this drift of population from the country to the cities? How can it be checked, and how should the work of checking it be carried on? In that spirit of glorification of individualism, which has characterized American society and institutions, each has been left to follow the bent of his own desires, whether by so doing he was or was not contributing to his own welfare or the welfare of society. The existence of free institutions, of course, requires that each citizen should continue to live where he pleases and do what he pleases, so long as he does not thereby violate the laws which society has made for its own protection and welfare. One can leave the farm and go to the city, although he would be a much happier and more useful member of society on the farm than in the city. Society cannot direct the efforts any more than it can restrain the liberty of the individual. And, yet, it is at once apparent that it is a proper State function to do what can be done to bring about a proper distribution of population, and to improve the happiness and welfare of all by improving the conditions of life and oppor-

tunities for successful achievement of each member of society.

We have been oppressed in this country for the last fifty years by a dogma that has come down from the days of the fathers, useful and proper enough perhaps when it was established, but inapplicable to modern conditions. That dogma has found expression in the theory of government which regards that government best that governs least. It is the duty of the people, acting together as an organized society, to exert the powers of government whenever it is necessary so to do to promote the happiness and the welfare of the people. And, so, if I am correct in my position upon this proposition, then a recognized function of state and national government should be to bring about a proper distribution of population between the cities and the country, and also to direct, in an effective way, the cultivation of our soil. In order that such an effort may be intelligently directed, the causes which have produced this drift of population from the country to the towns must be clearly understood. During President Roosevelt's last term he not only called together the Governors of the various States to confer upon the general subject, only one phase of which I have undertaken to present to you today, but he also appointed a Country Life Commission to consider this very problem. That commission was composed of men who were familiar with the general or scientific phase of the question they were called upon to investigate. And, yet, I remember when I read the newspaper publications of the report which this commission submitted, and saw the statement that the most important work necessary to check the drift of population from the country to the towns was to improve the conditions of social life in the country, I was impressed with the fact that the commission had shot side of the mark. From my experience as a farmer and my observations as a public man, I was impressed with the idea that what was needed was more scientific farming, better selection of seeds, proper rotation of crops, more live stock on the farm, the elimination of the middleman, and practical matters of that kind. But as I have come to study and to know of these conditions more intimately by investigation and observation, I have come to realize the correctness of the assertions made by President Roosevelt's Country Life Commission. It is natural with any people, progressing in education and indi-

vidual capacity for achievement and the enjoyment of life, that they should seek those conditions of social life which will best contribute to happiness and success, and it is useless to deny that the conditions of social life in the cities and towns have been superior to the conditions of social life in the country.

I cannot indulge in any extended discussion of the why or wherefore of this situation, because its existence is generally recognized and there are other important phases to be dealt with.

It is evident that the state and nation can do much, and already has done much, to improve the conditions of social life in the country. The rural free delivery, the telephone, both of which exist as an established fact, have done much because they have relieved the lonesomeness and isolation incident to country life, brought people closer together, made them better acquainted with each other and tended to increase the standard of living by making each familiar with the good things that the others enjoy.

The building of good roads is another important work for the improvement of social life in the country. It is almost impossible to overstate the importance of the building of good roads and the necessity and advisability of the state and national governments contributing to that end by some general system of state and national aid. I believe it is an absolute rule that you will find a higher standard of intelligence, better homes, better farms, better farming and better people along the improved country highway than along the unimproved country highway. It has been estimated that the tribute that the American people levy upon themselves every ten years by reason of the increased expense of bad roads over good roads would improve practically every road in the United States so as to be dependable for travel 365 days in the year. The building of good roads will do much to improve the country school and to save the country church. It will mean that the automobile will replace the ox cart, the farm wagon and the family surrey, and whatever may be the prejudice existing against the automobile, there can be no denying the truth of the assertion that it is civilizing, even if it is an expensive, agency.

But even with the improvement in the conditions of social life in these regards, there is more that the state and nation can and

should do to check the drift of population from the country to the towns. Private initiative or philanthropy can, and of course will, do much. But both private initiative and philanthropy will oftentimes be misdirected. There is the mistaken impression that we should go into the slums, or in those portions of our large cities where we find the most congested and poverty-stricken population, and seek to transfer those people to the country. There is also the impression that when one has failed at everything he has tried to do in the city, he should then go to the farm. Every one is disposed to think he can be a farmer, that is if he knows nothing about farming. The process of placing the seed in the soil and with the wonderful chemistry of the sunshine and the rain, mingled with the fertility of mother earth, produce the products of the farm and field, seems such a simple work that every one imagines that he can succeed at it. And then the sentiment, which those unfamiliar with the subject have sought to throw around country life, attracts many to agricultural pursuits who are but poorly qualified for such an undertaking. The country is no place for the incompetent man, or the man without credit or capital. One raised under conditions of life existing in the large cities, or even in the towns, is but poorly qualified for success at farming. The lonesomeness will soon oppress and discourage, even if the hard work and long hours do not. And, yet, I do not mean to suggest that the work of transferring the surplus population of the large cities to the country is either an impracticable or an impossible one. While, in a general way, the best results can be secured by keeping or placing upon the farms those who have been trained to the cultivation of the soil, yet we can produce farmers, under proper conditions, just as we can produce railroad men, machinists, lawyers or doctors. In this work we can learn much from the experience of European countries. There the farm, as we understand it in America, is almost unknown. The people, generally, live in farm villages, where they get the benefits of community life, of the social conditions which obtain there, and go from their homes in the town or the village to the cultivation of the soil. If through private initiative and activity large tracts of uncultivated land can be subjected to cultivation by such meth-



ods, I am satisfied that a better measure of success can be secured than in any other way.

The efforts along this line in my State, with which I am familiar, which have long since passed the stage of experiment, may not be without interest. Under the direction of the Catholic Church, and particularly of Archbishop John J. Glennon, of St. Louis, there have been established at a number of places in Missouri farm settlements or colonies which have been quite successful. One of these colonies consists entirely of Italians, another of Hollanders. They live in their village, have their church, their school houses and conditions of social life usual in small towns, and they go forth each morning to the cultivation of their fields and return to their homes in the evening.

The land for such a settlement is sold to the members of the community upon such terms as enable them to pay for the same gradually and each member of the community owns, in addition to the land that he cultivates, a lot and his home in the village. Labor saving devices are in this way possible through the establishment of community enterprises, in addition to the ordinary business incident to small communities.

While such enterprises would not be feasible for a State to undertake, yet the state can do much to assist private enterprise in establishing such communities or settlements. This assistance can be given in various ways. Thus, States which own land can sell to private persons or corporations tracts available for such purpose and under such terms as will enable the State, through proper officials, to supervise, in a general way, the manner in which the land is sold and the enterprise carried on. It is a State function, concerning the existence and advisability of which there can be no question, to advertise and assist in the development of the resources found within its limits. This work is usually carried on through an immigration commission or commissioner, whose work is to bring to the attention of the people of other States or countries the State's undeveloped resources, possibilities and opportunities. Under the direction of state immigration commissions such work has frequently been carried on in an extensive way and very considerable additions to population have thus been secured. Such enterprises are oftentimes undertaken by States acting in concert, as was the case some-

thing over a year ago when the Governors of a number of Western States organized and conducted a joint expedition for bringing to the attention of the people of the East the undeveloped possibilities and opportunities of the Western States. Such movements are oftentimes undertaken by commercial clubs, and through organizations interested in the commercial and agricultural development of the State.

I wish particularly to call attention to the fact that it is as proper and advisable a state function and duty to prevent misrepresentation of a State's resources and opportunities as it is to properly present them. Where laws do not already exist making it a criminal offense to publish a false advertisement as to anything offered for sale to the public, with the intention of deceiving, such laws should be enacted, and it should be the special duty of the State immigration commissioner, if such an officer exists, to see that those are prosecuted who falsely represent the character of the State's soil or possibilities of its use and development. Serious abuses have occurred in this regard by unscrupulous promoters, with the result that many entirely commendable enterprises are looked upon with disfavor by reason of the frequency with which the public has been imposed upon by unscrupulous land sharks with poor land to sell, and a disregard of the methods adopted to accomplish that result.

Another way in which the State can properly assist private enterprise in checking the drift of population from the country to the cities, and in aiding those who should go from the town to the country, is by enactment of laws establishing farm credit associations, such as exist in foreign countries, and which will be the special subject of discussion at our meeting on Saturday with President Taft in Washington. I fully believe that much good can be accomplished by such organizations. If properly provided for and conducted, they will serve to render the same assistance to the poor man capable of and desiring to own and operate a farm that the building and loan associations have furnished to the people in the cities and towns who desire to own homes, but who, without such assistance, would have been unable to do so.

While the benefits claimed for such enterprises may easily be exaggerated, I regard the action of the President in calling atten-

tion to the existence of these organizations in foreign countries and the necessity of establishing them here, as a timely and commendable one.

The conclusion I have reached, from my knowledge and investigation of this subject, is that the necessity of using to better advantage our great natural resources is an imperative one. I believe the State and national governments can devote themselves to no more important work than that which is necessary to increase the production of those natural products which constitute the food supply of the nation. This work is being effectively conducted through the state agricultural colleges, through the Agricultural Department of the national government and through similar departments maintained by the State governments. The great railroads of the country are also rendering a most important service along the same line through the work of their agricultural and industrial commissioners.

But the scientific information as to how to conduct our farms most effectively will not suffice. It is necessary that competent men should be secured for this purpose and that the drift of population from the country to the cities should be checked and, in fact, should be turned from the towns to the country. This result can be accomplished by improving the conditions of social life in the country and by making farming more remunerative than it has been under the old slipshod and haphazard manner in which it has been conducted.

The building of good roads, rural free delivery, country telephones, improvement of the country schools, the making of a social center of the country school and the country church, together with the advent of the automobile, will bring marked changes in the conditions of social life in the country. But men will naturally devote their time, their energies and their ability to the work that will remunerate them best. And in order that farming may give a suitable return upon the labor and the capital necessary to its conduct, it must be conducted under the most favorable conditions and relieved of unnecessary burdens in the way of excess interest charge, or other unnecessary expenses, either in the production of the crop or the selling of it to the ultimate consumer.

The problem is a large one, and any one of its various phases which I have suggested could well be made the subject of discussion for a longer time than I have felt I was justified in using today. But the lesson of history, as well as our own experience, gives us the solemn warning that if we would enjoy the assurance that our government, our institutions and our society will continue unchanged and unimpaired, we must be a people who enjoy, in a general way, the same conditions of social life; the margin of difference between production and consumption must be such as to make it possible that all classes of our population may eat the same kind of food. And the food that is necessary for the support of the people must be available for each who is willing to devote a reasonable portion of his time and energy and ability to the work that is necessary to secure it.

When such conditions cease to exist; when meat becomes a luxury to and an exception upon the tables of the poor; when as a nation we cease to produce more foodstuffs than we consume at home; then will come the real test of our institutions and our government. It is hard to reason with a man who often endures the experience of being hungry. The passions and prejudices that control the thoughts and actions of those who do not get enough to eat will create new dangers and new problems for the people of this country to meet and solve. The prevention of such conditions must be found in an increased production from the soil. If all the land that is now being cultivated was cultivated in the most scientific and effective manner for the production of crops and the conservation of its productivity; if all the land which is capable of being cultivated was scientifically cultivated, not only would these dangers never arise, but our country would be the richest country in the world and its people the happiest and most prosperous.

The evil influence and unsatisfactory conditions resulting from combinations and trusts can be prevented through the enforcement of proper laws. There is no question in my mind but that the American people will deal with this question effectively. The increase in the purchasing power of our standard of value will in time equalize the salaries and the wages with the prices of products. All other questions are capable of adjustment and solution, and will be adjusted and solved, if production keeps

pace with consumption and supply keeps ahead of demand. (Applause.)

CHAIRMAN TENER—The splendid addresses by Governor Eberhart and Governor Hadley, to which you have so attentively listened, concludes the set programme for the afternoon. The questions considered this afternoon are now open for discussion. A limit of five minutes has been suggested for each member to discuss the questions.

GOVERNOR MANN—I feel that in the space of five minutes it would be almost impossible to make any statement which would be of advantage to this audience, or which would be of service to the cause. When I became Governor of Virginia (the oldest commonwealth of this great Union) I found its manufacturing interests were advancing and prosperous; its industrial and commercial interests in good shape; but when I examined the agricultural conditions of the State I found that there was needed all the help which it was possible to give. Possessing twenty-five millions of acres of land, we had less than four millions under cultivation, and making allowance for the mountains and swamps and forests that we had ten millions of acres of arable land lying idle, convenient to market, along the lines of great railroads, with schools and churches and every convenience of modern and social life. Realizing in the very start that the farmer should have to have good roads and all the social advantages and conveniences in the country that are had in the city to hold them in the country and keep them cultivating the soil, I looked for ways and means by which these results could be produced, and realized that unless the farmer had money, unless there was an increase in the crops what was most desirable could not be accomplished. I concluded, therefore, that the thing to do was to start at the foundation to make the farmer prosperous, and then let the things desired come with prosperity.

These are practical questions; I am not theorizing. I realized it would not do to make war against prices. It is only in the last seven or eight years that the farmers have been able to get fair prices for their products. A great many of them have paid off their mortgages and are now in a condition to improve their lands and make good crops, increasing as the years go on and

as the methods improve. It would not do, therefore, to say the products are too high—the consumer would not be benefited by an argument of that kind. You have got to make the conditions in the country desirable for the farmer, his sons and his daughters to stay there.

We found that we had been improving in every direction except in our agricultural methods; that there was something wrong when farmers ride along in an automobile, the product of the last fifteen years, and pass corn fields cultivated just as they were two hundred years ago, and this is being done today in some parts of the country. We found by experiment that there is no such thing as worn-out land; that it is simply unproductive, and all you have to do to make it productive is to create the richer conditions; that there must be bacteria in the land before good crops can be made. In order to get bacteria you have to make it sweet and full of vegetable matter. When you have produced that condition, by judicious cultivation, you can produce the results you desire. The first thing we had to fight was the prejudices of the farmer. The farmers of Virginia are intelligent, but very conservative people, proud of the traditions and habits of their fathers, and difficult to convince that scientific methods are better than the old. We solved the difficulty in this way. We have found, however, that every farmer thinks his boy is the smartest boy in the world; therefore we tried to approach the farmer through his boy. We took hold of the public school as the easiest method through which this effect could be produced. We organized boys' corn clubs in every district in the State and put them to work, each boy on an acre of land, under the direction of the Department of Agriculture of the United States; but I should say before getting to that point that we have created an agricultural board in Virginia, through a law I drafted and got through the Legislature. That law coordinates the various agencies of agriculture and makes them work together. We found that a system, educational and effective, had to be provided, and therefore the law authorized the boards of supervisors of the counties to make appropriations, which the State and the United States undertook to duplicate. After getting the law in shape, we found that we were not making as much progress as we desired; so we put the boys to

work through the schools. To illustrate: a boy gets his father to allow him to take an acre of land and cultivate it entirely himself, under the direction of our department. The results were something wonderful, and if you will go to my office you will find a picture of a boy sitting on a pile of corn, of first-class quality, containing one hundred and sixty-seven bushels of shelled corn, grown on an acre of land. Looking at the ears you will find that every ear is perfect. Now, I have not time to go into all the details; but one boy lived on a farm where the soil was very sandy, yet he raised 164 bushels of corn on his acre. Another boy in Dinwiddie county, where the average yield of corn for many years had been 15 to 20 bushels made 167 $\frac{7}{8}$  bushels. You say those are individual and exceptional cases. I say so, too; but they demonstrate the capacity of the soil. The average yield of corn in the United States is between 25 and 26 bushels (perhaps 28 bushels in 1912). Perhaps Iowa produces on the average as much corn as any other State. Her average yield is 41 bushels to the acre. The average yield in Virginia is about 25 bushels, while the average production of our corn club boys last year was 56.5. Year before last there was a National Corn Show in the city of Columbus, Ohio, and it was shown there that 100 Southern boys had raised on 100 acres of land 13,300 bushels of corn, and our Western friends sat up and took notice.

We are now producing in Virginia four to six tons of hay to the acre on land which formerly would not produce anything but hen nest grass and broom sedge. There is a gentleman in my county who six or seven years ago bought a farm which was so poor you could not raise an umbrella on it, and today he averages 4 to 6 tons of alfalfa to the acre. I don't mean to say that Virginia averages that yield of alfalfa, but we are producing it about as well as any of the other States.

A gentleman from California, who settled upon the Rappahannock River, in the county of King George, cut \$35,000 worth of alfalfa from his farm one year and has alfalfa now, and will have it for the next five or six years. He has been cutting four crops of alfalfa hay every year.

This is the concrete effort of the old Commonwealth of Virginia—to increase her agricultural production, not to increase it

so much by number of acres cultivated, but by judicious cultivation.

I trust our Western friends and our Northern friends will permit me to say that the South in 1910 produced nearly one-third of the corn produced in the United States—nine hundred and nineteen million bushels of the two billion seven hundred million bushels produced in the whole country.

Our rainfall in Virginia is from 46 to 60 inches a year. The rainfall in some of the dry States is about 16 to 20 inches, and yet our friends in those dry States raise tremendous crops, and they do it by their method of dry farming. We are trying to follow their example and inaugurate a method here in Virginia by which we can make our lands produce, without regard to the rainfall, and I think we can do it by cultivating deep enough to make a seed bed for the crops and a reservoir for the water.

To stimulate the boys of our corn clubs, I issue a certificate of distinction to every boy who makes over 50 bushels to the acre. And we have ten-year-old boys who can do that. Several years ago, in Halifax county, I was making a speech to a high school. I saw a little wee boy standing in the crowd with two ribbons on his breast. I asked him what the ribbons meant. He said, "I got prizes for raising corn." I asked, "How old are you and how much do you weigh?" He said, "I am ten years old and weigh sixty pounds." I asked, "How many bushels of corn did you raise on an acre?" He replied, "129 bushels."

Now, this is the way to solve the problem of the high cost of living. We have to produce a greater crop within the same area, with pretty nearly the same labor and the same cost of production. The boy I mentined in Dinwiddie county made 167 bushels of corn at a cost of 22 cents a bushel.

We have found another thing—that blood tells in corn, just as it does in people, and we have pedigreed corn and find it produces a crop at least 20 per cent greater than other corn, and I think I can take the liberty of saying, quoting from the reports of the Agricultural Department of the United States, that after making various experiments in regard to the corn produced in the different States that they find that the germinating power of the Virginia corn is greater than the germinating power of the corn of any State of the Union. Everybody knows we can



turn out Presidents, because we have just turned out the eighth one as a gift to the country, and we are going to demonstrate that we can raise corn.

Now, it seems to me that if we want to solve these conditions, we must commence at the foundation; we must build up the farmer; we must put it in his power to have all the conveniences of the city. Why should not the wife of the farmer have everything that the city man's wife has? And when you give the conveniences and advantages of city life to the farmer's family you will find that they will stay on the farm; and when you build good roads, so the farmer's son when he finishes his work in the evening can hitch up and get in his buggy and drive to see his girl and get back between 10 and 11 o'clock (unless she makes herself particularly attractive), you will find that that boy will stay on the farm. Just as soon as we get conditions so favorable that our boys will stay at home and want to do it, then people from other sections will come to us. That is what we are trying to bring about. My plan is very much like that of Governor Hadley's and Governor Eberhart's, who seek to remedy these conditions, and in doing so to make the school the center of social life; to bring together the communities in such a way as to make country life desirable, and when that is done the problem that we are discussing here today will be solved.

GOVERNOR BLEASE—Mr. Chairman, I shall not undertake to discuss with the distinguished Governor of Virginia the question of raising corn, because South Carolina holds the world's record, and as to the quality of his corn, I would not for a moment discuss that, because all through prohibition South Carolina we have examples of the quality of his corn, shipped from the capital of his State by his wholesale dealers.

But, Mr. President, the other question in which South Carolina stands alone, and in which, in my opinion, she is superior to all the States of the American Union, written in the fundamental law of my State by a constitutional convention, composed of men of both races, in 1868, and even more emphatically in 1895 by the white people of South Carolina, are the words, "No divorce from the bonds of matrimony shall ever be granted." It may be, sir, a hardship in some cases, and possibly I might refer to cases where other States might think it was right, still

I say to this audience this afternoon, and I say it with pleasure, that the only correct rule, following both the Biblical injunction and the injunction of man, is that which South Carolina follows when she says: "Those whom God hath joined together, let no man put asunder." If there be one thing in the American Union that is a disgrace to American civilization, it is the sale of American womanhood for foreign titles; if there be another, it is the wholesale and unwarranted granting of divorces because, forsooth, some woman or some man has not got as much money by their marriage as they expected when the marriage ceremony was performed. I, personally, am glad that we have no divorce law in South Carolina, and if you will look to the rear end of this hall and pick out the best looking red-headed woman in this State you will see why I object personally to divorce. But, Mr. Chairman, when you lay down the law you will reap the harvest that the distinguished Governor from Nevada has pictured to this Conference today.

My State stands alone. We grant no divorces; we recognize no divorces. If a man leaves the State of South Carolina, or a woman, and goes into another State and obtains a divorce from his wife, he may come back into South Carolina and live; but if he again marries and moves back within the State with a second wife we hold him and his wife guilty of adultery and punish him accordingly; and if there are children born to the union after the divorce, the Supreme Court of South Carolina has stated in its opinion that they are illegitimate and cannot inherit the property of the parents. That, I say, may seem to some of you a hardship; but, my friends, it is far better that in a few instances some good woman may suffer, or some man may be caused to suffer, than to lay down a law which would bring, and which is bringing today, in disabuse the solemn bonds of matrimony, which only under any conditions or any circumstances should be contracted for love, sanctioned by a Divine power.

Mr. President, and brother Governors, we do not apply to your States anything wrong. It is your way of looking at the proposition. We do not mean for a moment to condemn you; nor would South Carolina or South Carolinians for a moment set itself or themselves up as the only or the proper guardian or guardians of the morality of the American nation; but we are

glad of the distinction that we hold; we are proud that it is written in our fundamental law; so that no Legislature, elected possibly by a wave of excitement or from other causes, can change it; it is so written that it is impossible to change it, and of that we are proud.

Now, we cannot follow this rule of desertion all the way through, but in South Carolina when a white man deserts his wife and children, or if he deserts his wife and they are without children, it is a criminal offense to fail to support that wife, or to fail to support the children, if there be such. Consequently the wife can go into a court of justice and prosecute her husband for non-support of herself and for non-support of her children, and we punish him as a criminal for failing to do his duty to that woman, to those children, to society and to his State. Therefore, we have but little trouble on this score. Sometimes we have a citizen who drifts to Reno; sometimes we have a citizen that crosses to Augusta, only going across the Savannah River; but when he realizes that when he comes back into the State that a criminal prosecution will hang over his head for the desertion of that woman, who has sworn, not only by man, not only for her love for him, not only for the devotion which she has for her State and her nation, but for her belief in the hereafter and in the God that gave her life that she would stand by him in health and in sickness, old South Carolina says to him, "As she stands by you, you have got to stand by her." We are proud of it; we love the distinction.

Now, there is a race of people in my section of the country—and I am painted to the world sometimes as their enemy, but I am not, and if the Governorship of South Carolina depended upon an election next Tuesday and they would leave it entirely to the negro vote, disfranchising for the time the white people, I could receive without trouble seventy-five to ninety per cent of the negro vote of the State to be their Governor; notwithstanding that I am opposed to educating them, and notwithstanding that I stand alone in this Conference and in other places of this nation, not as Governor of South Carolina, but in my individual capacity, believing that there is but one punishment, and that must be speedy, when that negro lays his hands upon the person of a white woman. Such a thing as happened a few days ago

in a certain State can't happen in South Carolina; the boasted hero of the black race, who claims to be the superior of the white man in the ring, could not disgrace South Carolina by having himself united to a white woman within its borders, thank God, and if it did happen, the law provides a punishment for him and a punishment for her, and the only reason that the law might be called in to protect them would be the location in the State at which the crime might have been committed. Otherwise there might be no need for a grand jury to present a true bill. Mr. Chairman, of that we are proud.

Of course, we cannot apply the same rules to this inferior race that we do to the superior race. And, why not? Because, my friends, you do not understand those people. You condemn us of the South, and yet Ohio follows the example; in Springfield they followed it; New Jersey follows it; Pennsylvania will follow it; because, no matter where it be, North or South, East or West, whenever you touch the Caucassian blood it is the same, and it will prove itself to be the superior, and the history of the world has proved (both the Bible and profane history) that the superior race will rule and control, even though it be necessary to wipe the inferior race from the face of the earth. Some men condemn this, and that is their privilege; but in the Southern States we love women; we hold them higher than all things else, and whenever anything steps between a Southern man and the defense of the virtue of the women of his nation and his State, he will tear it down and walk over it in her defense, regardless of what may be the consequences, or what may be his punishment, or the result to himself.

Now, Mr. Chairman, we have a judge in our State whom I consider the ablest man who has ever been on the bench there. On one occasion several indictments were handed out by the solicitor to the grand jury, and he sat there and heard the solicitor hand out indictment after indictment. After a while he turned around and said, "Mr. Solicitor, are these white people or darkeys you are handing out these indictments against?" The solicitor said, "May it please your Honor, they are against colored people." The judge looked over the grand jury and said, "Gentlemen, you can find no true bill against these negroes for the crime for which the solicitor is handing out these indict-

ments. Do you want any cotton raised this year; do you want your fields cultivated; if so, it will not do to bring in true bills on these indictments against these negroes." The result was no true bills were found. So, it will be seen that we can't treat them as we do ourselves. We treat them as servants. We pay them honestly for the day's work, and I am proud to stand here and make this statement—and when I speak here I know I speak to the American nation, because it has been heralded all over the nation and all over the world what my opinions are on these subjects.

I am proud that I have paroled or pardoned more negroes than all the Governors of South Carolina put together since 1876, when we redeemed ourselves and went back to white supremacy in the old State of South Carolina; therefore, I say that I am not his enemy, but his friend, and I know him better than you know him. But we don't give them divorce (the speaker was here interrupted)

GOVERNOR CAREY (of Wyoming)—Governor Blease, when you were sworn in as Governor of South Carolina, did you not swear to uphold the constitution and laws of the State of South Carolina?

GOVERNOR BLEASE—I did, sir.

GOVERNOR CAREY—Don't you have a law on the statute books of South Carolina protecting the negro the same as you do the white man?

GOVERNOR BLEASE—Yes, sir. I will answer the Governor of Wyoming (I believe) as I answered this question on the rostrum in South Carolina (I wish to call upon the newspaper men here to quote me correctly now—I am not excited—in South Carolina, thank God, I have the record of not only being a fighter, but a cold-blooded fighter)—I answer you, sir, by saying this, that whenever the constitution of my State steps between me and the defense of the virtue of the white women of my State, I will resign my commission, tear it up and throw it to the breezes and march to the defense of her honor and her virtue, regardless of what may be the consequences. I was quoted in a campaign speech to have said, "To hell with the constitution." Seventy-five thousand white men of my State endorsed it as I said it, and here is the way I used it—I said, "If the constitution

of my State causes my State to blush and allows her women to be forsaken, then I say, to hell with the constitution." We stand alone on this divorce proposition, and we are proud of it, and we have no apology to make.

GOVERNOR GILCHRIST—My talk will be less than two minutes on the divorce question. I think it ought to be impressed on every mother, because on the mother devolves the duty of impressing character on the boys and girls, and it ought to be impressed on the school teachers of the country, that the first element of a manly man and the first element of a womanly woman is a thoughtful consideration of other people.

GOVERNOR CAREY—It is very interesting to hear these speeches. I have never felt until I heard the speech of Governor Mann that I would like to die; now I feel that I would, if I could be born again and born in the State of Virginia. The gentleman sitting beside me says that he knows of his own personal knowledge that we are shipping hay from Montana to help feed the cattle of Virginia.

I want to say a word or two about this divorce question. I look upon it today as the greatest menace we have to the civilization of this country. I was raised in a small town in a small State (Delaware), and I never saw a divorced person in my life until after I went away to school and came back and then I did not see that person in that town. Divorce was not recognized except by a special act of Legislature in each case. I believe the law has fallen down. Divorce is too free in the West. The State of Colorado took an advanced step and provided that a divorced person should not remarry for one year after divorce. They made a quick jump over the border into Wyoming, so they could be married. I believe that divorce is next to death. I sometimes have been provoked with my wife, but I concluded I would rather contend with her than to take chances with any other woman. I have known a beautiful woman, not thirty years of age, bright and intelligent, twice divorced. She came to our town to obtain a residence, so she could get a divorce, and she married a most estimable man. There is nothing in the life of that woman to discredit her character, but it had become a force of habit with her. Her father and mother were divorced and married again and a child is very apt to think what a

father and mother does is about right. That woman has no idea of what is wrong with reference to this question of divorce. I sincerely hope there will be a national law passed in regard to divorce after we have given the Congress of the United States the right to pass such a law.

I was very much interested to hear my friend, Governor Oddie, discuss this question this afternoon. I wish these ladies would look him over. He is a bachelor. I think I was about his age when I was married, and I have been married thirty-five years. I think he is about thirty. He has not been married or divorced. I think he looks miserable. The married state is a beautiful one and a happy one. I have never found a man who was suitably married but what was better off than the man that was not married.

But to be serious in this matter: I do think that divorce is the greatest menace of this age. Marriage should be gone into for life. There are causes which may bring about separation and divorce, but in too many of the States divorces are procured too easily, and I believe the time has come to adopt such laws in regard to marriage that it will stop the divorce mill in every State in the Union.

GOVERNOR BALDWIN—I desire to call the attention of the Conference to one point where the United States government has taken, I think, decisive action in regard to State divorces. It has been the custom in the older States of the United States, many of them, to grant special legislative divorces. Governor Carey alluded a moment ago to a procedure of that kind in Delaware. They have been granted in my State and Pennsylvania and other States. The Fourteenth Amendment to the Constitution of the United States provides that no State shall deprive any person of the equal protection of the law. A special divorce granted by the Legislature of a State is not an equal law, and I believe that the Fourteenth Amendment has put an end to legislative divorce in the United States. I took that ground (if I may make a personal allusion)—I took that ground in the Connecticut Legislature last year, and it was sustained, and I think the lawyers of the Assembly generally thought I was right.

GOVERNOR BROWN—On the subject of checking the flow of people from the farm to the cities. Now, I have read the Pro-

gressive Farmer, the Country Gentleman, The Farm and Ranch and many technical discussions on farm management and manipulation. In addition to that I was reared on a farm; but I have never read anything, or heard satisfactorily explained or discussed just why it was (that is, in my opinion)—why it was that the farmer was dissatisfied with his lot. To my mind, the reason he is dissatisfied with his farm life is because he sees the men in the city better equipped; being better treated; acting as though they believed they were better than he is. Now, you must prevent him from believing this. In my opinion, he should be taught the truth, that a man with his sleeves rolled up, with his breast bare, out in the open air, in the sunshine, cultivating the soil, is engaged in one of the noblest activities that God Almighty ever looked at. Teach him the truth. Now, Governor Hadley said conditions were bad. They are not so bad, especially in the South. We are getting more now for our farm products than we have for a long time. Now, I want somebody to state why a girl reared in the country, doing domestic work, can't believe she is as good, if she has the reputation of being the best cook, the best girl to cut out clothes, the best seamstress, why she can't be as well contented as being the most beautiful girl in the neighborhood, or the one best posted on the fashions of the day. I want somebody to explain to me why it is that a man raised in the South will consider it a social question to go out and work by the side of a negro. In my judgment that is not a social question. I have day after day worked with a negro in the field, and if he beat me that was all right. I did not consider it a social question. He never thought of coming into my room and staying there with me. Now, another thing we want to know is, how can we have as good schools as Governor Eberhart in his State, without a thirty million dollar school fund. In my State we have no such school fund as that. We want to know how we can have good roads without having the full treasury that Missouri has. Now, these are the questions to be solved: how to get these things; how best to teach the farmer and the laboring man that he is as good as anybody. Teach him that one man can do but one thing successfully in this world. Teach him that the man who follows the plow in the field, the man who pushes the carpenter's plane, or the man



who follows any honest labor is as good as the man who sits in the law office, or the counting room. These are the things that we ought to get together on.

GOVERNOR HADLEY—I will run the risk of talking too much to give the Conference our experience in dealing with this divorce problem, so far as I know originally. In Kansas City it was found that the number of divorces was exceeding the number of marriages. Acting upon the theory that in a marriage contract there were three parties—the man, the woman and the State, and the State had a vital interest, the courts were given the power of appointing an attorney to represent the State in petition for divorce, who investigates all the facts and when the plaintiff comes there and expects to get an easy decree he is met by the representative of the State of Missouri, who states the true facts, and the result has been that there has been a remarkable decrease in the number of divorces granted. Now, the trouble is not in the law, but in the administration of it. I have seen circuit court judges grant a divorce on the ground that the husband or wife had spoken harshly the one to the other, or something like that. That was not the fault of the law, because the judgment of the eighty-five million people in this country is to the effect that divorce should be granted in some cases; but it is the manner in which the laws are enforced by the courts that is the trouble.

By GOVERNOR MANN—Is this attorney who represents the State present at the taking of the depositions?

By GOVERNOR HADLEY—Yes, he is present at the taking of the depositions.

GOVERNOR MCGOVERN—In Wisconsin it is made the duty of divorce counsel to represent the State in the manner which Governor Hadley has described.

GOVERNOR HAWLEY—In Idaho we have the same thing.

GOVERNOR BROWN—I was struck with the remark made by Governor Carey. Within the last twenty-three years I have been provoked two or three times by Mrs. Brown, and I expect she has been provoked with me three or four hundred times, and as long as I can keep the proportion as it is there will be no request for a divorce on my part. This divorce law is being ably and somewhat vigorously expounded this afternoon. What

I arose to say, however, is regarding the matter of the movement of the country people to the cities. "Where a man's treasure is, there his heart is also." I think that will hold good all over the world, and when you can make it to the interest of the countryman to stay in the country and to make more in the country for his labor than in the city, then he is going to stay in the country. When you can persuade a man that he can get more money and will have substantially the same social advantages in the country he and his family will not only not object to the country, but will want to stay there. In our State we have abolished the convict lease system, and have put them upon the public roads. In 130 out of 146 counties the counties have applied under the law for their allotment of convicts and they are now making the best roads we have ever known. Take for example the county in which Atlanta is situated, they have roads as good, and in some places better, than the streets in Atlanta. It has resulted in an unmistakable movement of the well-to-do people from the city into the country districts. Now, when you can put a man in the country on the basis of reaching the church easy, of reaching the school house easy, of preserving for the ladies of his family the social amenities of life and contemporaneously with that put him where he can make a good living, he is very apt to stay in the country. In our State we have a college of agriculture, and we are now endeavoring to see what the soil analysis shows is the necessary compound for fertilization, to bring up the soil to the perfection of production. Governor Mann has referred to the corn clubs of Virginia. Well, we have the corn clubs in Georgia, and I am told this year that one boy has raised 233 bushels on one acre. I will state that I raised 158 bushels myself to an acre. Some of the papers said something about my being the champion corn raiser. I told the reporter to make it clear, if he was going to state that, that I confined the contest to men; that I was not going to run against the boys; that the boys had me "beat a mile." The whole matter is that we should adopt as States and as communities in States a process which will enable a man to make a living as easily in the country as in the city. When we can we will find that the country will have probably to a very large proportion of the population, a greater attraction than the city has.

There is in the mind of nearly every man a yearning for the soil; yet with all that yearning for the raising of big crops, of raising fine stock of various kinds, there is the lack of social amenities. The good roads will supply that to a great extent, and the analysis of the soil and the knowledge of the proper fertilization and cultivation of the soil will produce increased crops and bring the farmer more money. I think we should all work toward the betterment of the condition of the countryman, so he can make it to his social and financial interest to stay on the farm.

GOVERNOR SHAFROTH—Upon the question of marriage and divorce. While South Carolina is the only State in the Union, as I understand it, which provides that no divorce whatever shall be granted, we cannot help but realize that State after State has added modifications and has produced a code as if it were for the granting of divorces, and as much as we all regret that divorce should exist, as much as we all hold that the marriage tie should be sacred, there can be no doubt that there has been some reason for the extension of the grounds and reasons for divorce. It is not possible that the Legislatures of the different States of the Union should have been disregarding of the marriage vows when they have passed laws providing for the granting of divorces; it cannot be possible that they should not have regarded that marriage should be sacred. Yet we do find that there is a sentiment that there has been too liberal an enactment of these laws. However, I do not believe that in the most instances this is a defect in the law, but it is the lack of the administration of the law—the fact that the courts are granting divorces that never should be granted. The legislator presents the law in the form of a bill. He no doubt knows of instances where there have been cases of extreme cruelty practiced by husbands on wives. Shall we say that that is not a cause for divorce? If a man beats a wife every day, is it possible that she shall stay with him and stand it? We cannot help recognizing that nine-tenths of the people have recognized that divorce should be granted for some causes, and these laws have been enacted after mature deliberation on the part of the legislators. Ninety-nine hundredths of the people who hold that the marriage tie should be held sacred, hold that every right of woman

should be held as sacred, and especially the rights of a wife, and yet we find that even in those cases there are conditions which make it imperative that she should appeal to the courts. While we recognize that the virtue of a wife and daughter should be held sacred, yet we cannot sanction the doctrine of mob law, no matter what condition may exist. I regard that one mob does more injury to society than twenty murders. And, why? Because that mob sentiment permeates almost the entire community. Because you have many justifying the breaking of the law. That produces anarchy. That produces the feeling in man that he must take the law in his own hands to avenge himself, and if we do that we have no such thing as government. That results in anarchy. We have these things occasionally in every State in the Union, and the influence that it has upon the members of the State where it happens is most reprehensible. It seems to me that as Governors, who are to administer the law no matter what it is, that it is our duty to enforce the law as we find it. I had an instance not more than six weeks ago of a man sentenced to be hanged. A great many persons signed petitions which were presented to me asking that his sentence be commuted. I said, if the people want to have the question tested as to whether or not capital punishment should prevail, I will reprieve him until the vote shall be taken, but that I could not, no matter what my private views were, refuse to administer the law as I found it, whether I believed in it or not; because we have in this country a fundamental principle, greater than any political party, and that is the principle that the majority must rule, and when the majority says that certain laws shall be the laws of the commonwealth, then by all means those laws should be enforced by the Governor of that State. Although I felt a deeper sense of sympathy in behalf of the prisoner than I perhaps would ordinarily, I felt that the laws of my State having been enacted and requiring the capital punishment of a man found guilty of his crime, I felt he should be hanged. So, when we have laws on our statute books for the punishment of criminals, whether they be white or black, those laws should be enforced; especially should there be no excuse for mob law. Every Governor should feel that the laws of his

land should prevail, and not mob law, and that law and order must be enforced.

GOVERNOR KITCHIN—Of course, my State borders on South Carolina and we have a great many common interests, but I thoroughly agree with the views expressed by Governor Shafroth, and I want to say, in my judgment, and the experience of my State will bear it out, that there is not one case where a man is lynched but that if he were guilty he would be executed under due process of law. There has not been a lynching in North Carolina for the last four years. There have been twelve or fourteen capital executions and I have had to call out the military three times in separate cases to prevent threatened lynchings. In all three of these cases the prisoner was accused of the crime of which Governor Blease spoke so vehemently. In each case the prisoner was protected and in each case the prisoner was capitally executed. There was another prisoner capitally executed for the same offense, but in that case there was no threatened lynching, and I know of no case where any man accused of such crime, if there was reasonable certainty that he was the offender, in which he escaped the death penalty, and I hope there is a stronger sentiment in favor of enforcing the law in our State now than ever before, and I believe that the law-abiding sentiment of the people throughout the country is gaining in strength. I certainly trust so.

GOVERNOR MANN—There has not been a lynching in Virginia for the last six or eight years, and when a man is accused of the crime of which Governor Blease has spoken, if there is danger of mob law I will turn out every soldier in this commonwealth if necessary to see that he is tried and convicted according to law. In other words, I am going to enforce the laws of Virginia at all hazards and without regard to the condition of the prisoner charged with the offense.

CHAIRMAN TENER—I would now like to ask whether Miss Johnston and Mrs. Valentine are prepared to speak upon the question they wish to present to the Conference?

At this point Miss Mary Johnston and Mrs. B. B. Valentine made addresses in regard to "Equal Suffrage" which were not reported.

Mr. T. Sambola Jones, Commissioner of the Panama Canal International Exposition, extended an invitation to the Governors to attend the Exposition, and for such of them as had not selected sites for the exhibits of their respective States to come out and do so.

On motion, duly seconded, an adjournment was taken at this point until Friday morning, December 6th, 1912, at 10 o'clock A. M.

## FOURTH DAY

FRIDAY, DECEMBER 6TH, 1912.

The session was called to order at 10:30 o'clock A. M., by Governor Vessey, of South Dakota, in the chair.

GOVERNOR NORRIS—Mr. Chairman, the Committee on Arrangements presents the following revised programme to conform to the programme heretofore announced by the Committee and supplemented by the special arrangements made at this Conference: Governor Vessey is nominated for chairman this morning. The subject for discussion this morning will be "Rural Credit," with addresses by Governor O'Neal of Alabama and Ambassador Myron T. Herrick, special representative of the President of the United States. Then general discussion. Then an address by Dr. Johnson, of Memphis, Tenn., and Miss Noa.

It was moved and seconded that the programme be adopted as read by the Chairman of the Committee on Arrangements. Motion carried.

GOVERNOR HADLEY—I brought before the Executive Committee of the Conference a matter that was of personal interest to the members attending the Conference, and upon the suggestion of Governor Harmon that it be taken up this morning, I here present it. All of us who had the pleasure of attending the Conference at Louisville and Frankfort, Ky., two years ago have remembered the meeting and pleasant association we at that time enjoyed with Governor Marshall, of Indiana, and his wife; also, those of us who attended the Conference at Spring Lake remember the very agreeable entertainment we received at the hands of Governor Wilson, of New Jersey, and his wife. Since that time the American people have elected Governor Wilson and Governor Marshall to the offices of President and Vice-President, respectively, of the United States, and while I entertain certain opinions as to the political sagacity of their selection, yet on this occasion I would not express them. I think we all agree that the practice of electing Governors to this office should be encouraged in every way. That is one point I am

glad to say there is no difference of opinion on. I offer the following resolution:

Whereas, Hon. Woodrow Wilson, Governor of New Jersey, and Hon. Thomas R. Marshall, Governor of Indiana, have been elected respectively to the offices of President and Vice-President of the United States, therefore, be it

Resolved, by the members of the Conference of Governors that we extend to Governors Wilson and Marshall our congratulations on their election to these high offices, and express the hope that they will enjoy a happy and successful administration, which will contribute to the welfare and prosperity of the people of the United States.

GOVERNOR MCGOVERN—I second Governor Hadley's resolution, and permit me to suggest in connection therewith that the Secretary of this Conference be requested to transmit a copy of the resolution to Governor Marshall in Indiana and that Governor Fort be asked to transmit a copy of the same to Governor Wilson in New Jersey.

CHAIRMAN VESSEY—I will ask that that be written into the motion. Those in favor of the motion will signify the same by saying aye; those opposed, no. The resolution is unanimously carried.

CHAIRMAN VESSEY—Governor O'Neal will now deliver an address on the subject, "Rural Credit."

### "RURAL CREDIT."

GOVERNOR EMMET O'NEAL OF ALABAMA.

Mr. Chairman and Members of the Governor's Conference:

It has long been recognized that the failure of our financial system to provide methods by which our farmers could procure money at reasonable interest for their legitimate requirements, constituted one of its gravest defects. Yet while this defect has been admitted, it was not until recent years that any remedy for this condition was suggested. Owing to the absence of proper banking facilities for agricultural needs, the farmer has been compelled to apply to loan brokers, merchants and private indi-



viduals for that capital which the legitimate conduct of his business required, and to pay not only heavy commissions, but, generally, exorbitant and usurious interest. The necessary result has been that agriculture, which constitutes the chief source of our national wealth, and the most important occupation in which our people are engaged, was not only injured but its development seriously retarded. The farmer could not understand why an occupation which added annually to the national wealth over eight billion dollars, and in which twelve millions of our people were engaged, should be practically boycotted in the money markets of the country, and denied that credit so generously accorded to our manufacturers, merchants and other business men. They were deeply impressed with the conviction that a banking system which produced such results—which practically refused to accord those engaged in the most productive industry of the country access to reasonable banking facilities and credit, must be economically unsound and indefensible. They accordingly years ago organized, in the various States, unions, leagues and other associations, to combat this injustice, and proposed many visionary and impracticable schemes to remedy the evil. From this agitation and unrest in former days, political parties were organized, demanding the unlimited issue by the government of greenbacks, the establishment by the government of warehouses and sub-treasuries authorized to loan money on farm products, or empowered to issue currency based upon that security. The rapid growth of the Populist Party, which advocated those policies, was largely due to the conviction, on the part of the farmers in the South and West, that the financial policy of the government was dictated by the great banking institutions and money interests of Wall Street to subserve their own selfish purposes and to make the great agricultural interests of the country helpless vassals of an autocratic predatory money trust. All the schemes and remedies formerly advocated by the Populists, and similar organizations, after years of agitation, were finally rejected by the country as visionary and economically unsound. In 1896, the advocates of unlimited issuance of greenbacks, and the establishment of sub-treasuries, believed that a remedy for the conditions which so seriously handicapped our farming interests could be found in the free and unlimited coin-

age of silver. After the bitterest struggle in the political history of the country, that remedy was also rejected, and the general prosperity which followed that period tended to obscure, if not to make the country forget that the economic injustice which our financial system created, so far as the farmer was concerned, still continued unsolved. In the meanwhile, the enlargement of our money supply, the increased cost of living, and other causes, rapidly advanced the price of all farm products, and furnished a temporary relief. The earnest efforts of the government to induce the farmer to adopt improved and scientific methods of agriculture, were supplemented by our agricultural schools and State governments, with the result that the productive capacity of our lands was largely increased. The report of the last census showed that there had been in the country generally a remarkable increase in the value of farm lands, and the percentage of crop values and production. In the South, especially, was this increase most marked. For the first time since the Civil War the South, which had been producing the least per capita in farm values, commenced to produce the most. The last decade showed that the Central Western States, whose lands were long regarded as the most productive in the nation, showed a 56 per cent increase in crop values, as compared with an increase of 138 per cent in the South Atlantic States—an increase so unprecedented as to be characterized by a leading journal as the most important economic phenomenon occurring on the continent of North America. Yet, notwithstanding the more general adoption of improved systems of agriculture, and the rapid advance in the value of all farm products and farm lands, the farmer was still confronted with the same old problem of agricultural credits. He fed the world and the usurer alike. He was still entangled in the coils of the money shark, still compelled to pay heavy commissions on top of high interest rates for the money required for his legitimate needs. The system against which he struggled still continued to levy unjust tribute on his income, to discourage his efforts, to increase the cost of production and the high price of living to the consuming masses of the people. Fortunately, the attention of the country has again been directed to the solution of this important question. As the President stated, in his interesting and instructive letter

to the Governors: "The need for the establishment of an adequate financial system as an aid to the farmers of the country, was now quite generally recognized." Accordingly, the President directed the Department of State, through its diplomatic officers in Europe, to make an investigation of the agricultural credit systems in operation in certain countries in Europe. These instructions issued by the President to our diplomatic officers in Europe on the 18th of last March were, as he states, effectively supplemented by the American Bankers Association, the Southern Commercial Congress, and other bodies, with the result that a vast mass of valuable information and knowledge has been furnished the country as to the methods adopted in foreign lands to so extend their agricultural credit facilities as to make them equal to the benefits enjoyed by other industrial and commercial organizations. This patriotic action on the part of the President, the thorough grasps and comprehension of the entire subject which his letter to the Governors discloses, and his earnest efforts to secure a just and wise solution of this important question, entitles him to the thanks of the country. It should be a source of congratulation that a movement so vital to the advancement of our agricultural interests has behind it the powerful support of all the agencies of the federal government.

The basis of this whole movement, the pressing need of remedial legislation and action is very clearly summed up by the President when he states: "The twelve millions of farmers in the United States add each year to the national wealth \$8,400,000,000. They are doing this on a borrowed capital of \$6,040,000,000. On this sum they pay annually interest charges of \$510,000,000. Counting commissions and renewal charges, the interest rate paid by the farmers of this country is  $8\frac{1}{2}$  per cent as compared to a rate of  $4\frac{1}{2}$  to 3 per cent paid by the farmer, for instance, of France and Germany." Every student of this subject has reached the same conclusion as the President, that the reason the American farmer pays a higher rate of interest than those engaged in industrial and commercial pursuits, is largely due to the lack of that financial machinery and banking facility by which his security could be made as negotiable and as convenient as the bonds of a corporation. There can be no

security more valuable or stable, than the farm lands of the country. Like other forms of security, it is not subject to violent fluctuations. The last report of the Census Bureau shows that during the past decade there has been a steady and continuous enhancement of the value of farm lands all over the Union. In my own State this increase has been over 116 per cent, and we have every reason to believe that this increase will continue during the coming decade at accelerated ratio. It is evident, therefore, that those who are seeking investment, could find no safer or more valuable security than farm lands, whose values are constantly increasing. With the growth of our wealth and population, the adoption of improved methods of agriculture, the construction of better highways and cheaper methods of transportation, and the ever growing demand for farm products, this security will continue in the future to become day by day and year by year more valuable. Yet, notwithstanding this, we all know that under the operation of the financial system that now exists the farmer is forced to pay a higher rate of interest for loans upon his land than is exacted from any other form of security. Until some better system is adopted, some plan by which farm mortgages can be more readily negotiated, by which land credits, as contradistinguished from personal credits, can be more easily mobilized, the investor will continue to demand these high rates of interest. Certainly some remedy for this condition can be found. Foreign countries have been confronted by the same problem, and, by a system of co-operation, have solved it so easily and successfully that credit is extended to the farmer personally and money loaned on security of farm lands at a rate of interest lower than can be secured by those engaged in any other occupation. Those who have carefully investigated the system in operation in Continental Europe, are convinced that it is not only economically sound and practicable, but fully deserves the commendation of the President when he states: "So successful has been its operation that in Germany, in times of financial stress, money has been taken out of the commercial field and placed in the keeping of that Empire's agricultural co-operative banks for safety."

## COOPERATIVE CREDIT.

The whole system of rural banks to extend personal credit to the farmer, now prevailing in Europe, is based upon the fundamental idea of cooperation. The original idea of cooperative credit was first conceived and applied in Prussia in about 1848, and from that country gradually spread over all Continental Europe. The distinct and fundamental characteristic of the system, as first conceived and operated, remains today practically unchanged. The banks operated under this system still bear the names of their originators, Schulze-Delitzsch and Raiffeisen. In 1851, Austria and Hungary adopted the system. In 1864, Belgium inaugurated a special movement by the establishment of a people's bank at Liege and, about the same time, through the influence of Signor Luzzatti, similar banks were inaugurated in Italy. The contagion of this movement finally permeated all Europe, and we find that in 1866 it was extended with varying success to Russia, and in 1883 to France; to Scotland in 1889; to Ireland in 1894, and then to the young Balkan States, and finally crossed the sea to Syria—the Antilles and India and various islands of the sea. The system, then, that prevails in Europe, for the purposes of this discussion, may be divided into three classes: (1) a system of rural banks to extend personal credit to the farmer, known as the Raiffeisen system; (2) the Schulze-Delitzsch system of banks, which are urban, and whose loans are not confined to farmers; (3) cooperative land credit societies, known as the *Landschaften* and *Ritterschaften*, whose principal purpose is to loan money on real estate secured by mortgage, the mortgage to extend for a long period of years, the principal to be paid by small annual payments, known as amortization.

## RAIFFEISEN SYSTEM.

As originally conceived and operated, the Raiffeisen bank was composed of members who were jointly and severally responsible for every obligation of the bank. It had no shares, no profits, no dividends, and almost no expense. It received savings and other deposits and, in a small way, transacted a general banking business. Only the smallest possible interest was charged to the borrowers or granted to the depositors—generally from three to

five per cent, and now, with increased money rates, from four to six per cent. The loans required by the members were generally secured by borrowing from other banks—the collective liability of all the members making the note readily negotiable at the lowest possible rate of interest. Each member had one vote, and the transactions of the bank were restricted to a very limited area—like one township or school district, and to which territory it was strictly confined. The principal business of the bank was transacted at the general meetings composed of all of the members, or to which all were invited. As the committees, trustees, secretary-treasurer or general manager, generally served without salary, the expenses were reduced to a minimum. Under the system now prevailing the secretary-treasurer or general manager receives a small annual salary.

#### EFFECT OF UNLIMITED LIABILITY. .

It is claimed that “never a dollar has been lost” by these banks since they were originated by Raiffeisen in 1849. This fortunate result is chiefly due to the unlimited liability of each member for the bank debts. A very clear, interesting and instructive discussion of this system is found in a book recently published, entitled “Cooperative Finance,” by Herbert Myrick, in which he states that, on account of the unlimited liability, every detail of the bank is watched by the members, and that as a necessary result of this personal interest, scrutiny and vigilance, and notwithstanding these banks now number many thousands, their creditors have never yet sustained any loss. He states that the increasing and intelligent interest in the enterprise, created in part by the joint and several liability of the members, results in binding together the membership into one common brotherhood for economy or social welfare. It is, however, also stated that the earlier plan of no membership fee has been supplanted by requiring each member to put in a minimum fee of \$2.50, up to a maximum fee of \$125, and that the tendency now is to limit the liability of the members to from two to five times the amount of their shares. Moreover, the accumulation of large reserves from year to year, renders the unlimited liability of the members unnecessary for the stability and success

of the bank. It is stated that the loans by these banks are made for varying lengths of time, from a few weeks or months, up to five or ten years, and are made upon the personal note of the borrower, endorsed or vouched for by some neighbor.

#### USES TO WHICH RURAL CREDIT MAY BE APPLIED.

It is evident that the wants which credit is called upon to supply, are as infinitely varied with the farmer as with other classes of our people. Should there be any limitation, distinction or restriction by cooperative credit, as to the uses to which they shall be applied? As a recent writer has felicitously said, there are, broadly speaking, two forms of credit—productive credit and consumption credit. When a farmer borrows to purchase farming implements and fertilizers, the result of his transaction is a better crop. In such a case, as has been truly said, the credit has served to increase economic wealth, and when his crop is sold the farmer will have an increased gain which enables him easily to liquidate his loan. On the other hand, if the agriculturist borrower merely uses the loan to pay his grocery bill, the loan has been spent and the borrower only substitutes one creditor for another. This distinction is scrupulously observed by the cooperative bank on the Raiffeisen system. Credit is extended only for agricultural purposes, for the purchase of fertilizer, seeds, farming implements, stock, and for all those manifold and varied forms in which money can be used to extend farming operations, to increase the value and productive capacity of the land, and to add to the comfort, convenience, necessary needs and income of the farmer. Another distinguishing feature of the Raiffeisen system is that the principal of the loans is usually reduced by small annual payments. It is evident, therefore, from this brief discussion, that the fundamental principles of the Raiffeisen system are: (1) unlimited liability of the members; (2) a restricted area of operation; (3) gratuitous management. Both the Raiffeisen and Schulze-Delitzsch systems of cooperative banking, though different in operation, are based, as has been said, on the fundamental principle of organizing would-be borrowers so that they can obtain, by combination, the credit facilities which they would have sought individually in vain. The Raiffeisen banks are essentially clubs of farmers,

whose members know each other personally, and are familiar with the manner in which the loans are expended; admission to membership being as strictly regulated as in private clubs, and the personal habits, character and standing of each new member are carefully scrutinized. This is essential in view of the fact that the members are individually and collectively liable and responsible.

#### SCHULZE-DELITZSCH BANKS.

While this type of bank does a large amount of agricultural business, it is usually located in towns and transacts the bulk of its business with town people. While each member has a vote, it is stated that the shares are larger and can be paid by installment—the average paid up capital being about \$200 a share, and the present tendency being to limit the liability of the member to the amount of his shares. A regular banking business is done by this system of banks, for its principal purpose is to earn money for shareholders. After paying interest on its savings department and the shares of the members, the remaining profits are usually added to its reserve until it reaches fifty per cent of the members' capital, and then the earnings go in dividends to the shareholders.

In addition to these primary banks scattered all over Germany, there are forty-one provincial or district unions. The purpose of these district unions is to supervise and create a greater spirit of unity and cooperation among the local banks—the representatives of the local banks annually attending the general assembly of the district banks, and, during the interval, contact with the district banks or unions being maintained by incessant correspondence or by visits of traveling inspectors and professors for advice and consultation. There are also seventy-three Central societies, divided between the provincial unions, and of these seventy-three Central Societies it is stated that thirty-six "Centralize in each province or district the purchase of initial products and working implements, and the sale or transformation of products, whereas the thirty-seven others are district credit societies or banks, whose duty it is to insure the clearing of capital and the transmission of loans between the local credit banks of their jurisdiction." A recent writer said:



"toward this Imperial Federation converge all the provincial elements, the unions maintaining contact with the head office of Darmstadt, the district credit banks uniting, some with the Central Agricultural Bank of Co-operative Association, and others with the Central Bank of Agricultural Credit of Neuwied." These two central organizations transacted business in 1905 of more than a billion francs. This, in brief, is the organization of the Imperial Federation of German Cooperative Societies. Complete harmony and unity of action characterizes all the different groups, each performing its function and all so organized as to secure complete coordination and the best economic interests of the agricultural classes.

#### THE LUZZATTI SYSTEM.

This system derives its name from Luigi Luzzatti, its founder. It does not follow the German system, except in its principle of cooperation. There is no joint and several liability of its members, and its shares are small in amount, averaging from five to ten dollars each, which must be paid in ten months, and no member owns over \$1,000 in shares. No member has more than one vote, irrespective of the number of shares that he may own, and the operations of the bank may embrace a relatively large area of territory, even to the extent of a county.

#### MANAGEMENT.

It is stated that the bank is controlled by a large board of management elected by the members, and selected with the greatest care so as to represent each interest and locality. This board of management in turn elects an executive committee of from three to five members, one of whom must always be present, who is vested with the supreme authority of the entire board. Loans are made almost exclusively on personal credit. A recent writer on this subject says that eight hundred People's Banks dealing in urban and agricultural credit—two hundred savings banks and at least fourteen hundred agricultural credit banks—a total of twenty-four hundred credit banks, and that "here in reality is a nutritive and productive source whose cooperative activity, individually and collectively, draws each year hundreds of millions of dollars." One cannot fail to catch the con-

tagion of the spirit of enthusiasm manifested by a recent French author in describing this splendid movement of the cooperative credit system in Italy—the powerful spirit of social unity and of brotherly feeling which he says pervades all these institutions, and the marvelous social and economic renaissance which Italy is now enjoying under the stimulating and magic effect of credit extended to all classes of her people.

#### MORTGAGE BANKS.

Loans on mortgages, for long periods, are granted by another type of cooperative credit societies formed by land owners, known as the *Landschaften* and *Ritterschaften*. The underlying principle of all these different systems is cooperative credit, which the Recess Committee, in its report to the British government, declared was a modern discovery which may be likened, as a factor in production, to the discovery of steam. The success and practicability of these systems of rural credit have been thoroughly demonstrated by enormously increasing business and membership. The total business done in Germany alone in 1909, under the Raiffeisen system, was \$1,557,293,580. The total business done in 1910 in Germany by the Schulze-Delitzsch popular banks, was \$3,231,801,035. It also appears that on June 1st, 1910, there were no less than 18,962 cooperative societies in active operation in the German Empire, of which 15,517 were rural banks. The banks had a total membership of 1,163,186, or an average of 92 per institution. A recent report of the International Institute of Agriculture, issued in February of this year, fairly shows the usefulness and vitality of that form of cooperative credit, by means of bonds guaranteed by the land owners collectively, known as the *Landschaften* and *Ritterschaften* cooperative land credit societies, by the statement that, through this form of cooperation, German agriculture was furnished in 1909 with a total of loans on mortgage of 3,490,199,810 marks, and at a rate of interest which did not exceed  $3\frac{1}{2}$  or 4 per cent. These remarkable figures furnish unquestioned proof of the growth and success of these systems in Europe. The limits of this paper will not permit a consideration, or discussion, of the details of these different systems of rural credit. The voluminous publications on this subject furnish full and

accurate information as to these varying systems of rural credit. As the President very clearly states: "The entire field of agricultural cooperative credit in Europe is properly divisible into two parts: first, the cooperative societies of farmers formed for the purpose of obtaining personal credit; and, secondly, the societies or private corporations formed to create a sound security in land mortgages for the purpose of gaining a national or international market for bonds based on farm land mortgages." No one then can deny that the need of the American farmers requires the establishment of a similar agricultural cooperative credit system in this country. No one, however, who has given careful thought and study to the question claims that we can adopt these systems in their entirety. They would necessarily have to be altered and modified so as to be adapted to the different conditions, character of population, customs, habits and education, that characterize the different States of the Union. These conditions vary in each State, and in sections of the same State. The habit of cooperation, which is a fundamental principle upon which the Raiffeisen system of banks is based, does not prevail in many sections of our country to the same extent as it does in Germany. In the South, especially, there are some sections where conditions for the establishment of such banks would be ideal, and yet there are other sections where it would not be possible to secure that cooperation which the success of these institutions demand. I, however, fully agree with the President, that the general principles followed by the so-called Raiffeisen banks of Germany are economically sound, and should be adopted in this country. The Southern Commercial Congress has already undertaken, with most commendable zeal, to send a commission to Europe composed of two delegates from each State to make a careful examination and study of the systems now prevailing in Europe, and to report their conclusions to some subsequent meeting of the association, after which suitable legislation can be proposed and adopted. The Senate of the United States has already adopted a joint resolution endorsing the action of the Southern Commercial Congress. Whether we should undertake to form these cooperative societies at once through State legislation, or await the results of the investigations and recommendations of the proposed commission,

is a question for the determination of each State Legislature. There has already been great dealy, and the interest in the question of rural credits is now becoming so intense, and the need of relief from present conditions so imperative, that action at a day as early as possible is necessary. In my judgment there should be immediate action taken to establish some wiser and better system of loans on farm lands, a system by which these loans could be made readily negotiable, and at low rates of interest, and by which by using amortization the borrowing farmer can repay his loan in small annual payments by the time the loan matures. In the South, especially, there is urgent need of some system by which land credits can be quickly mobilized—by which mortgage security can be made readily marketable, negotiable and available. After a mortgage loan is made the lender should be provided with some method by which he can re-discount his mortgage security like any other negotiable paper. By a system of land mortgage bonds easily negotiable, that large mass of our people who have small sums to invest could find an absolutely safe investment, which they could also use as collateral or readily sell in the open market. These same persons are generally the principal victims of unscrupulous promoters who exploit millions of dollars worth of fictitious stock and bonds, the chief value of which oftentimes consists only in the handsomely engraved certificates on which they are printed. There is one obstacle, however, which must be removed before we can hope to establish any such system of mortgage banks as exist in Germany, and that obstacle is the imperfect titles which prevail in almost every State in the Union. The failure to promptly record conveyances—the loss of court records by fire or carelessness—neglect to preserve important deeds, patents and other evidences of land titles, the acquisition of title by adverse possession and tax sales, and carelessness on the part of owners and officials, all make it extremely difficult to establish a perfect chain of legal title to real estate. These difficulties can be overcome, however, by many of the systems of guaranteed land titles which have been operated so successfully in a few of the States and in many foreign countries.

In his letter to the Governors, the President suggests the suitability of organizations similar to the German land mortgage

banks, for incorporation under State charters. He also states that it is essential "that the laws creating and governing such institutions should be uniform throughout the State, in order that they might be well understood by the investor, and their debentures should be given character both at home and abroad." I am satisfied that every Governor will concur in the wise and timely suggestions of the President. This uniformity which the President recommends as so essential, can only be obtained by our taking such steps as will secure joint cooperation and united action on the part of the Legislatures of the different States. I would, therefore, suggest that a committee be appointed by this Conference, to prepare a bill to authorize the organization of land mortgage banks for incorporation under State charters similar to those that exist in Germany. In order that debentures issued by these land mortgage banks may find a ready market, the President suggests the enactment by Congress of laws permitting the creation of national land mortgage banks similar to those of Germany and France, with power to guarantee and market the bonds issued and guaranteed by the State land banks and credit societies.

#### LANDSCHAFTEN SOCIETIES OF GERMANY.

The Landschaften societies of Germany date back to the latter half of the eighteenth century and were established primarily to meet the intense poverty and loss of credit which followed the long and expensive wars of Frederick the Great. Their primary purpose was to make real estate an asset of credit easily negotiable, and the bonds which were issued by amortization to extend over a long period of years, instead of by lump payment. Under the system which prevails in Alabama, and most of the Southern States, the farmer of limited means is forced to secure personal credit, or money needed for current expenses, by crop liens or chattel mortgages. His crop is generally mortgaged before it is planted, and the advance lien, or chattel mortgage, embraces not only his prospective crop, but all his stock and farming utensils. Without any method of obtaining credit, he is forced to pay such interest and commissions as the avarice or greed of the merchant, or person supplying the credit, may dictate. Where the farmer who seeks such

financial aid is a tenant, the crop liens or chattel mortgages are subordinate to the paramount and prior lien of the landlord, and such security is of doubtful value. If the credit consists of money, exorbitant interest is charged; and if they consist of supplies and farming implements, the credit price is fixed at an amount which is almost confiscatory. If a farmer possessing valuable real estate desires to secure a loan, there is no bank to which he can apply, and no corporation or individuals regularly engaged in the business of loaning money on such security. His only recourse is to apply to a broker and pay extravagant commissions, or seek some neighbor and friend who is willing to make the loan. All such loans, however made, are generally for a short period of time, with the necessary result that the high interest which is paid, the commission of brokers, the fees of attorneys for examining the title, the record fees and other expenses, usually make the borrowing of money on mortgage almost prohibitory.

#### COMMERCIAL BANKS—NEED OF COOPERATIVE BANKS.

Our system of commercial banks, both State and national, has performed an important service to the American people. The growth and prosperity which these institutions have enjoyed, conclusively show that the public has been extremely liberal in rewarding their services. Yet the great mass of our people, both in town and in country, who most need credit, do not possess individually the resources, or engage in a business, which justifies them in seeking accommodation from the existing type of banks. The necessary result is, that this large mass of our people, who are rich in health, energy and ambition—who are eager to improve their condition in life, and upon whose labor the economic prosperity of the country so largely depends, from lack of organization, and the ownership of large resources, are sternly denied all credit. Their resources, when individually considered, are too attenuated to form the basis for credit, but by a system of cooperation their honesty and thrift could be capitalized, their resources all pooled and by the establishment of a system of smaller banking units, based upon the cooperative principle of service rather than dividends, this large class of our people could secure credit as cheap and as readily as those who

engage in larger and more important business. The successful operation of these cooperative banks in Europe shows that by proper methods credit which is not over expensive can be extended to the poor and those of limited means. As has been truly said, these banks help but do not give, and the thrift and economic prosperity which have followed their operations in Europe is a complete answer to those who doubt their practicability and success. As Henry W. Wolff stated: "The masses need popular cooperative banks to democratize credit, to make credit and all other banking facilities readily accessible to small folk to whom the ordinary avenues leading up to such benefits are at present closed. That is the distinctive object of cooperative banks. They are to be persistently called upon to take up and practice the small business, which, just because it is small and therefore little remunerative and very cumbersome, the other banks elect not to carry on. They are, in other words, to provide for the millions—for poor people down to the very humblest, who show themselves worthy of credit." The fact that these cooperative banks have increased over tenfold in twenty years in Germany, that their growth is greater from year to year, that their total liabilities in 1909 were about \$455,000,000, conclusively shows that the fundamental principles upon which they are founded are sound. These banks have encouraged thrift, fostered education in agricultural and other sciences, promoted a better system of farming, and it has been claimed that it is largely due to their influence that there has been an entire cessation of that emigration that threatened to depopulate rural Germany. The world has been astonished by the marvelous industrial and agricultural development in Germany in the past twenty years, and those who have carefully studied this system of rural banks and cooperative credit, claim that the transcendent results have been chiefly due to the introduction and operation of cooperative banks.

The establishment of banks of the Raiffeisen, Schulzt-Delitzsch type in Germany, and the Luzzatti system in Italy, must depend upon the action of each State. I believe that every one who makes a study of these systems of cooperative banks can but reach the conclusion that they can be successfully operated in this country by being so modified or altered as to meet condi-

tions in America. We must remember, however, that before we can establish similar systems of banks for the extension of rural credit in this country, a propaganda of education and study must be undertaken. A central office might be established to gather together all possible information and lay down fundamental principles, to arouse public interest, to present the results of study of foreign practices and to formulate proposed legislation. From the central office branches could be easily established in every State to commence a campaign of education, to present the fundamental principles and necessities which make the establishment of these systems of rural credit so imperative and to arouse public interest in this important movement. The Southern Commercial Congress has already patriotically undertaken this task and proposes to make an exhaustive study of this entire subject, and the results of their investigation will no doubt be extremely valuable. It occurs to me, however, that some central association, embracing all of the States of the Union and all agricultural associations, including the Southern Commercial Congress, should be established with a central office located in Washington. Time and patience are always required when it is undertaken to implant new institutions in rural districts in opposition to rural customs and habits. We must expect and overcome opposition and hostility arising from prejudice and ignorance. No great movement of importance to the public welfare has ever been established without overcoming opposition, unjust criticism and the opposition of special and selfish interests. The fundamental principle upon which the success of these systems of rural banks for the extension of personal credit to farmers and loans on mortgages, depends, is that they must be conducted *not for profit, not to earn dividends to shareholders, but solely in the interest of the borrower.* The success of this movement absolutely demands that we heed the wise words of the President when he warns against "harmful exploitation for personal gain." As Ambassador Herrick has truly said in reference to organizations for the loan of funds to land owners, "there should be no profit to promoters in the organization of such corporations, and their return to the stockholders must be kept within very reasonable limits. In other words, the borrowers and not the stockholders should be the chief beneficiaries



of the success of the undertaking. The mortgage held by the company should be exempt from taxation. Special laws would be needed and provision made for thorough examination by State and national authorities or both." The success, therefore, of this movement for the extension of rural credit, largely depends upon the action of the Governors. No force can be so potent in securing the success of this movement as the united cooperation of the Governors of the States. Under the constitutions of the different States, the Governors can not only recommend, but initiate legislation. They are part of the law-making power, and hence the success or failure of this movement will, to a great extent, depend upon their action. It was the necessity of cooperation, of greater uniformity in State legislation, that gave birth to this Conference. I am deeply impressed with the conviction that this important question of agricultural finance or rural credit can be solved as successfully in America as it has been in Europe, that we can safely adopt the fundamental principles upon which they have been operated and adapt them to meet the pressing needs of our farmers, and other classes now so sorely in need of credit. The opportunity and duty is ours. The establishment of this system in this country will stimulate industrial and agricultural development, will encourage thrift and economy on the part of our people, will reduce the cost of production, will prevent the drift of population to the towns and cities of the country, will make life upon the farm more attractive and profitable, will check the concentration of wealth in the great centers of trade, will reduce the high cost of living, will put our waste and uncultivated lands in cultivation, and will herald an era of unexampled prosperity. It is this principle of cooperation which cultivates individuality, which tends to prevent the abuses of capitalistic combination and the establishment of great industrial trusts, which will stimulate social and business intercourse and fellowship among our people, which will capitalize honesty and verify in this country the experience of Europe that "with equal prudence and intelligence on the part of the lender, loans to the industrious and economical poor, or to people in moderate circumstances, are as safe as those made to any class whatever." These cooperative banks have overspread Continental Europe and even the Isles of the Sea.

It has been truly said that it is only the United States and Great Britain "that still lag lamentably behind." I sincerely trust that as the result of our deliberations and discussions this important movement will receive renewed impetus, and that the day is not far distant when there will be in operation in every State in the Union cooperative banks, extending to the masses of our people the same advantages of credit now enjoyed by the citizens of other countries. (Applause.)

CHAIRMAN VESSEY—I now have the pleasure of introducing to you Ambassador Myron T. Herrick, the special representative of the President to this Conference, who will address you on the subject, "Rural Credit."

AMBASSADOR MYRON T. HERRICK—Ladies and Gentlemen:

I first became interested in the subject of farm mortgages when I was a boy on a farm, where many of you gentlemen probably spent your early years. As I look back I think that the first thing that ever worried me was a discussion that I overheard concerning the renewal of the mortgage on the farm. Matters of this sort were discussed at night when the children were thought to be asleep. The mortgage was held by a man who, in those days, was considered very wealthy, and he had delayed in making reply to a request for a renewal of the loan. Naturally there was considerable anxiety as to what should be done if he refused. The mortgage was one of that sort that matures with great frequency—usually at times when it would be very inconvenient, if not impossible, even to make a partial payment. Of course the interest had to be paid annually, or semi-annually, and, as I remember it, the mortgage had to be renewed every two or three years. I recall that, even in those days, I was much disturbed by the periodic falling due of the loan—very likely many of you have similar recollections.

Later on when I became the president of an institution which now holds savings of approximately \$60,000,000—the property of nearly a hundred thousand people, I had to make myself familiar with city and rural real estate values in Ohio, and with the methods used by farmers for financing their need for funds. I soon became convinced that there was something radically wrong with the farm loan system—not only in Ohio but in all

parts of the country. It strikes me that our farms can well be compared to a locomotive that stands with a loaded train behind it—all ready to start, but with no track on which to move. That illustrates, in a way, the condition of our farms. Everything is ready and favorable for a substantial forward movement in farm development, except for the lack of adequate financial machinery—as important to the farms as is the track for the railroad train, by means of which farmers can easily and cheaply secure the funds they need to pay for improvements.

Some three or four years ago, while in Europe, in the course of a discussion of rural credits with one of the leading authorities on the subject, he said to me, "You have scientific farming, and all the modern appliances, but until you finance your farmers, you won't really get the matter moving." This was a verification of the opinion that I had formed. In listening to the remarks of Governor Hadley and others on the subject of the reclamation of the swamp and arid lands of the country, there came to my mind some figures in regard to agricultural development in Japan, which, it seems to me, are very striking. In area Japan is not as large as the State of California. Of the total amount of land there only about one-sixth is arable; and yet Japan supports about 55,000,000 people. Of course this is possible only by the most thorough cultivation of all the land suitable for tillage. If cultivated to a like extent, California could easily support a population as large as that of Japan. All this emphasizes the importance of teaching the youth of our country how to preserve and develop the resources of the soil—as so forcibly stated by Governor O'Neal in his address. It is only within recent years that we have tried to teach our boys anything relating to the land and its cultivation. It is not long since that they were taught that the purpose of their ambition should be to become rich men in the cities, or the President of the United States. I remember hearing of a teacher who said to her class, "How many of you boys would like to become President of the United States when you are men?" All but one boy held up their hands, and the teacher said to him, "Johnny Jones, don't you wish to be President some day?" He replied, "Yes, ma'am, but I can't, I'm a Democrat." Of course no boy would make such a reply now.

Much that is now disturbing social life in the United States and Europe may be traced back to the time when the drift of population turned definitely to the cities. The general use of machinery, and the wide application of science to practical purposes, require workers of all kinds. They have been drawn from the fields in large numbers; and the specialization of labor has made them, and all dependent upon them, subject to the social and industrial conditions thus created. Hand made goods have given place to cheaper manufactured goods. Articles which formerly were luxuries, or not known at all, have become daily necessities. The exchange value of labor and commodities have undergone readjustment; and, although the price of foodstuffs and raw materials have relatively increased, the producers have not secured the advantage that might have been expected. The cost of production itself has increased. Because laborers can now choose between employment in the factory or on the farm, the profits of agriculture are affected by the scale of industrial wages. Moreover, when the farmers ceased to produce for themselves alone—when they began to produce for the open market, to sell what they raised and to buy, in large quantities, what they ate and wore, they also felt the effects of the great social and economic changes that have taken place, and have become as much a part of the industrial world as merchants and manufacturers.

The drift of population to the city has not yet been stayed. Over 10% has been added to the ratio of urban population in the last two decades. In 1900 there was one farm for every 13.2 persons in the country; in 1910 there was one farm for every 14.5 persons. On the average, therefore, each farm now has to furnish food for more than one more person than in 1900. Under the circumstances, it is not altogether surprising that in the last twenty years the price of cattle has advanced nearly 62% of hogs 96%, of cotton 28%, of wheat 67%, of corn 200%, and of potatoes 282%, and that the price of other farm products have steadily advanced.

Of all the problems confronting the people of the United States none is more distressing than that arising from the high and increasing cost of living. The increases in the prices of food can not long continue without serious consequences. A rise of

a few more points will result in widespread hardship in the larger cities where decent or comfortable existence is now difficult for persons of small means. Many reasons have been given for the advance in prices, but I believe that it is primarily due to an inadequate production of foodstuffs, and that if more acres were put under the plow, and a greater productivity obtained for the acreage already under cultivation substantial progress toward the solution of this distressing problem would be made. But the general adoption of the methods of intensive cultivation and a considerable enlargement of the improved area would require an enormous expenditure of funds. Where can this money be found? Is the present financial system able to supply it?

Agriculture, according to Charles Rayneri, the French expert, requires two kinds of capital—one for the estate, and the other for operations. The first is represented by the land, buildings and permanent improvements. The second is represented by the live stock, implements, machinery, seeds, fertilizers, and all that goes to make production. Each of these two divisions can and should support its own credit, and it is very important to carefully distinguish real estate credit and agricultural credit. The land must not be confused with agriculture as an operation.

Money invested in land becomes fixed and immobilized, and, if the land is not a mine, a quarry, or a boom town lot, it can be recovered only slowly out of the yearly product. This is a long and feeble process. It has been figured out that land in Europe, where values have long been settled, does not return much over 3% a year. In other words, it would take about 24 years at compound interest to recover money so invested.

But agriculture itself is far more remunerative. Funds employed in agricultural exploitation are estimated, in France, to render 15% to 20% profit, and if a farmer uses highly scientific methods during the whole twelve months, the profit may be greatly increased. The land is simply an instrument upon which the farmer, with the aid of sunlight, moisture, labor and other means, brings into being something which did not exist before.

In the United States the land mortgage business is not specialized, except in the cities, and no effective attempt has been made to adopt the principle of amortization, "without which,"

said Mr. Royer, "a land credit system remains an uncompleted and fragile scaffold, endangering the good name and the public welfare of any country trusting upon it." This remarkable statement uttered in France in 1845—on a principle discovered in Sweden in 1754, brought into general use in Germany in 1839, and now made obligatory on long time loans all over Europe—was proved a bitter and terrible truth by the ruin that was wrought by the failure of over one hundred farm mortgage companies that tried to finance the farmers in the South and West a score of years ago on three and five year loans, on inflated valuations, at excessive rates, and without carefully contracting for what purposes the money advanced was to be used.

The mortgage loans that the American farmers now get come from life insurance companies, local banks, brokers and individuals. It is reliably reported that thirteen of the larger life insurance companies on January 1, 1912, had outstanding farm loans amounting to \$439,000,000. But the total from all of these sources is not nearly enough. Every person and concern openly in the market for farm loans is swamped with applications. The failure to respond to this demand of countless numbers of honest and conscientious borrowers is evidence that something is wrong. Of course the supply of farm loans is not equally deficient in all parts of the country. In some localities farmers can obtain funds in comparative plenty, although the terms and conditions of the loans are apt to be more burdensome than the farmers' credit warrant; but in other localities the supply of obtainable funds is inadequate at any price and on any conditions. Inasmuch as existing statutory laws, or the lack of them, and the principles on which banks in this country are organized militate against the sufficient extension of credit to agriculture, new methods soon will have to be adopted to satisfy the rapidly increasing financial requirements of farmers.

In adherence to the divisions already mentioned, I will speak first of real estate credit. "Banking is easy to learn," said a wise Englishman, "if you know what a mortgage is, and let it alone." Banking has been the handmaid of commerce and industry immemorially, and is admirably adapted to render them all the service they need, although the system of the United States needs some radical changes and modifications in order to

properly fulfill its functions. However, commercial banking has more to do with the circulation than with the placement of capital. The securities it seeks are merchandise and things already created of immediate and determinate value, which readily pass from hand to hand and are suitable for quick exchange.

The business of a commercial bank is founded on the hypothesis that the merchant who borrows will be able to repay the loan within three months or a year at the most, and this -  
chant makes many turnovers of his stock within that space of time. If he did not, he would fail and bring loss to the banks that trusted him. So the success and existence of both depend upon keeping their capital always on the move. Such being the nature of a commercial bank's business, it is evident that such an institution cannot render service on a larger scale to farmers who have only real estate to offer for security. The only indebtedness for which real estate should be pledged is for its purchase or improvement. Funds thus employed become fixed capital, and the farmer can never repay the loan unless the returns from the soil are ample and regular enough to allow him to save and set aside a balance every year for its amortization. This is a slow procedure, and, consequently, the operation falls outside the rules and customs of commercial banking. A commercial bank would endanger its ability to pay on demand if it kept a large volume of mortgage loans in its portfolio for any length of time. But, once taken, such loans would have to be kept for a considerable period for their characteristics are all against their rapid repayment. Savings banks and trust companies,—a large part, at least, of whose deposits are subject to notice,—may very properly and safely invest a portion of their deposits in mortgages, provided their liquid assets are in sufficient proportion to carry them through periods of stress.

The law forbids national banks to make real estate loans, and limits the amount of such loans which other banks may make. These restrictions appear logical and necessary when there is taken into consideration the nature of land and its revenues, the statutory formalities provided for its transfer, the possibilities of defective titles, the legal technicalities, delays and expense involved in foreclosure, and, over and above all, the

true principles which must govern in using it as security for loans. There continues to be considerable agitation in favor of permitting national banks to make real estate loans. It will be a serious mistake if the national bank act is so amended. National banks have a peculiar and definite province. They are the custodians of the greater part of the demand deposits of the country, and, as such, they are responsible for the integrity of the whole financial system. To fulfill their most important function they must be in readiness to pay on demand all claims against them,—particularly in times of financial stress,—and they will be unable to do this if any considerable part of their assets are invested in real estate loans, which, experience conclusively shows, are the most difficult of any kind of loan to liquidate.

A farmer should not be compelled to pay back a real estate loan in lump, or faster than he can make the equivalent out of the land. The only logical and practical method for a farmer to pay a loan secured by his land is by amortization, in other words, by small partial payments regularly made. Amortization is the dominating feature of the land mortgage systems of all European nations. There are four kinds of amortization, but the kind recognized as most scientifically correct is that prevailing in France and countries which have copied her plans. The average length of a loan in France is over thirty years, and may run for seventy-five years. The annual sum paid by the borrower is composed of the interest, the pro rata of the cost of business and an installment on the principal, and is called an annuity. It remains level with the same rate of interest, through the entire term of the loan, but each year the actual amount of interest decreases and the amortization item increases, so that by the end of the term the debt is completely wiped out. The percentage of principal to be repaid each year, under the amortization plan, depends, of course, upon the term of the loan. Thus, suppose a loan is made at six per cent for ten years; the annuity is 13.5868, a little over 13½%; if the length of the loan is twenty years, the annuity is 8.7185%, about 8⅞%; if the length is fifty years, the annuity is 6.34444%, a little over 6⅓%. The longer the term, the smaller the annuity, so that, in the last case, the payment on the principal becomes absolutely in-



It starts with 34 cents per \$100 the first year, and at the final year is \$5.99; but the annuity of  $6\frac{1}{3}\%$  remains the same for every year of the term.

These figures point the way to the correct method for the farm mortgage business in the United States. Adopt the amortization system, and there will be few foreclosures and disposessions. Debt will no longer bear oppressively upon the farmer's mind. A mortgage on the farm will cease to be an object of dread. Funds will flow in a bountiful and unending stream from the investing public to the farmers and back again. By means of a system of amortization the American farmer could permanently finance his real estate holdings. He could pay his annuity from the earnings of the soil, have a fair balance for the comforts and luxuries of life, and contemplate with complacency the leaving of the farm to his children, who could in the same easy manner continue to pay the annuity until the debt was finally conquered.

But amortization calls for special institutions for its full play. They may be either associations of borrowers, like the famous *landschaften*, or joint stock companies. But none of the European institutions (with the possible exception of the German land banks, properly so-called), can be recommended as models in their entirety for the United States. They all, or nearly all, have special privileges, with the right, among other things, of summary proceedings against debtors in default, which American farmers perhaps would not tolerate. Lenders, also, might not easily become accustomed to the debentures, or mortgage bonds, issued by these institutions, although in Europe they are the most popular investment for the savings of the people. These instruments may be made payable to bearer. They have no fixed time for maturity, but are redeemable at the will of the makers, which is usually done by lot, with premiums or prizes in some of the countries. Since no land mortgage system on the European continent could be transplanted bodily into the United States, we should have to take the best principles, such as the associated guaranty of the *landschaften*, the government supervision and amortization methods, and construct new machinery adapted to American needs and business habits.

The whole social structure of a nation rests on land, and since whatever promotes wise and efficient soil development makes for

the betterment of all the people, there is no logical reason why debentures, secured by farm mortgages, should not be free from taxation, especially since the taxation of such securities is double taxation. It is obvious that freedom from taxation would very materially lower the rate of interest on the debentures, and by just so much lessen the cost of funds to the farmers. European land credit institutions have attracted money in abundance to real estate owners for over a century, and lowered the rate of interest to a present minimum of about  $4\frac{1}{4}\%$  from a maximum of 10% at the start. This was done by creating safe, convenient and negotiable real estate securities for the savings of the poor as well as for the surplus funds of the wealthy.

But although in my opinion the land credit systems would have to undergo material modification before acclimatization here, I believe that the personal credit system, such as has become the almost exclusive means of obtaining short time loans in agricultural Germany, would require but a very few changes in order to adapt it for the uses of farmers in many parts of the United States. The way it has covered Germany and is spreading over Europe makes one of the most remarkable chapters in the history of finance.

As is well known, these agricultural banks are simply cooperative societies, the credit of which is established upon the solidarity of their members. This solidarity may render the members individually liable, with or without limit, for all the debts of their association, according to the laws or the articles of agreement under which it is formed. The tendency everywhere is toward unlimited liability, for it inspires confidence and expands the borrowing power up to the full credit value of the combined responsibility of the adhering members. The loans made by these cooperative societies are secured, not by mortgage, but by the personal obligations of the borrowers, secured by the guaranty of two associate members. The obligation to stand good for a neighbor has been the stumbling block to the introduction of cooperative credit in all countries. But apprehension on that ground is not justified. The affairs of a few cooperative societies in Europe have wound up on account of financial difficulties or lack of business; but no failure has ever occasioned loss to depositors or creditors, or a burdensome as-

assessment on members. Their solidity is so widely recognized in Germany that in panics deposits drawn from other banks have been offered to these societies. During the war of 1866 and 1870 deposits without interest were offered in such volume to the German credit societies that they had to be refused.

The inherent strength of a cooperative bank becomes easily understood upon studying the principles that govern it. The liability is the only thing about it which may be unlimited. All else is carefully and rigorously limited. The territory of operations is limited. The amount and kind of its social engagements are limited. No speculative or risky investments are tolerated. The total amount of the loans allowed are limited. The maximum for individual loans is fixed. The rate of interest is fixed. The term of the loan is fixed, and except in some of the Raiffeisen societies, is not longer, with renewals, than from harvest to harvest. The money advanced can be used only for a productive purpose and in the way especially agreed upon, and should the claim be fought or the contract wilfully violated, the borrower is expelled from the society and becomes an outcast in his community.

No loophole has been left. In theory and practice these cooperative societies are admitted to be admirably adapted to accomplish the object for which they were devised. In some provinces in Germany there is a bank in walking distance of every farm composed, maybe, of only a dozen or more neighbors, and having but a few hundred dollars of assets. Throughout the Empire there is an average of one bank for every 1,600 people. Their very smallness redounds to their strength, as it permits the farmers to watch and encourage each other and prevent improvident borrowing or the misuse of a loan, while the proximity furnishes the indispensable requisite for all banking which aims to collect small savings and handle numerous transactions.

The cooperative credit societies have lowered the rate of interest to around 4%. Organized and managed as intelligently as in Germany, cooperative credit societies would place the money American farmers make under their own control, and keep it in circulation for agricultural purposes. They would make it possible for agriculture to finance itself and reach the high stage of industrialization now required by modern conditions.

The present financial system in the United States, adapted especially for commerce and industry, is the outgrowth of human forces acting in an entirely natural manner. Those who live in cities are easily able to combine and protect their mutual interests by daily contact. The isolation of the farmer is a disadvantage from an economic point of view. The circumstances of farm life, however, are not conducive to close association. Farmers do not have the opportunities to meet and discuss common interests as do those living in towns and cities. The result is that agriculture in none of its aspects is as well organized as other kinds of business. The lack of sufficient credit facilities is not the only problem resulting from rural isolation and lack of cooperation; and perhaps the bold, self-reliant spirit of American farmers, inbred by generations of independence, intensifies the situation.

In Continental Europe plans for the organization of land and agricultural credit were made at a time when they were just emerging from serfdom,—when they were ignorant and without power of initiation. It has been said that land and agricultural banks, similar to those that have been so successful in Europe, could not be established in this country, because American farmers, intellectually and temperamentally, are so unlike European farmers. This is an absurd and illogical assumption, and is tantamount to saying that because our farmers are well educated and intelligent in a high degree, they are unwilling and unable to profit by what has been accomplished in other countries. The farmers in the United States are the intellectual superiors of the farmers in any other country in the world, and with equal facilities they will set the pace in scientific agriculture. There is no more reason to assume that farmers are indifferent to progress than there is to assume that bankers are deficient because they operate under a faulty and inadequate banking system.

It is a very delicate matter to offer a suggestion in behalf of our farmers, accustomed as they are to solve questions as difficult as that of improving farm credit facilities. The fear of the resentment that might be incurred is perhaps causing many honest and public spirited men to hesitate in giving advice and assistance. The financial needs of agriculture and the high cost

of living are allied problems, and their solution requires the patriotic, unselfish service of all those interested in the permanent welfare of the country.

GOVERNOR MANN—I offer the following resolution:

Resolved, That a committee of five\* members of this Conference be appointed by the Conference to prepare a bill to be submitted, after its approval by two-thirds of the Governors, to the Legislatures of the several States by the Governors thereof, to provide for the establishment of Rural Credit Banks, with provisions sufficiently elastic to meet the conditions of every section and to meet the needs of all the people of the United States engaged in agriculture.

GOVERNOR BALDWIN—That is evidently a very important resolution and ought to be considered, I think, with some care before its adoption. It assumes that there are certain laws that could be passed in every State which would be suitable to each, and which would facilitate agricultural finances. I was going to ask Ambassador Herriek if he would be good enough to tell us what laws there are, in his mind, which it would be advisable for the American States to adopt.

I understand him to say he would not adopt the principle of unlimited group liability.

If a man signs a note of hand, he is liable, under European procedure, to summary proceedings, if the note is defaulted. He has not a jury to go before, and his note is a sort of confession of judgment. That would not do for us.

As to amortization, is not that entirely feasible as a matter of contract now, under our existing laws? Is it not in every day practice in issuing such securities as car-trust bonds and others that might be suggested?

As to the right to establish an association for cooperative purposes, is not that secured by that freedom of association and incorporation which is a recognized American institution? I suppose my State does not differ from most States, but we have four modes of procedure whereby persons who want to associate with anyone else for any purpose, except two or three, may do so. One of them is to organize as a voluntary association,

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\* Number later increased to nine.

with a distinguishing name, under which the association can sue the members individually, or sue anybody, and anybody can sue the association, and anybody can sue the members of the association individually. Another form is an association with a capital stock, capable of holding any amount of property. Another form is the ordinary copartnership. Besides that we have cooperation in the form of a holding-trust, an association which accomplishes almost all the purposes of a corporation, and among other things is exempt from the federal corporation tax.

Nothing occurs to me in the way of law that in my State is necessary to bring any of these schemes into full operation.

AMBASSADOR HERRICK—I would say this, that I think Governor Baldwin is quite correct in the matter of the law of incorporation today; but, you know, not long since the banks were not inspected by the different States, and I know in our State we had a good deal of disaster as a result. Bank inspection has created fine results. We had an example in the building and loan associations. Nearly all of them failed in 1893, but afterwards came back and are very useful in building houses in the cities; but they did not meet with success until they were inspected. In other words, we have to have the confidence of the people before we can sell to them. We can only do that by convincing the people, the investing public, that these institutions are honestly conducted. In order to do that, I say we must have some governmental inspection. I don't assume to advise you gentlemen, I should much rather that you appoint a committee to look into this matter carefully and see if you cannot discover some of these fundamental principles which have proven so sound by practice in Europe.

GOVERNOR HARMON—We have bank inspection laws in many of the States. What is it that we need to do by legislation?

AMBASSADOR HERRICK—My idea is to have something like the banking association. We felt the necessity in order to have harmonious relations of the banks of the different States to have laws that would be harmonious; therefore we got together and formed the association, something like your Committee of Arrangements, and adopted uniform methods. If the States would adopt harmonious laws in regard to mortgages, I think we could secure splendid results. For instance, if you wanted to

buy a bond in Louisiana, based on security there, you would not have to look up the law there, if we had these uniform laws; the law would be the same as in your own State.

GOVERNOR HARMON—Then the idea would be to clear away the differences in the States rather than different sections?

AMBASSADOR HERRICK—Yes; get inspection laws; the same as on building and loan associations and on banks.

GOVERNOR BALDWIN—We have that in Connecticut.

AMBASSADOR HERRICK—Yes; we have been following your example. I think we have a lot of preliminary work to do along some of those lines. I should like to see us not only follow what others have done, but improve on it.

GOVERNOR MANN—I would submit in reference to the suggestions made, that the object of this committee I propose is to do exactly what these gentlemen want to do, and this committee wants to prepare a plan and not submit it to the Legislatures of the different States until approved by two-thirds of the Governors of the States, and that this plan, whatever it may be, may be sufficiently elastic to meet the needs of the people all over the United States. I was president of a country bank from 1873 until 1910, when I was inaugurated as Governor, and we loaned from 1873 until 1910 on real estate, and we did not lose a dollar during that time, although the land values were so unsettled as to have no value in the markets of the world; but now real estate values are settled. In Virginia we have what is known as a deed of trust, which is a self-executed mortgage. We do not have to go into court to execute a deed of trust. You can provide that the bond or negotiable note can be renewed, and that that deed of trust continues to secure the renewal note, whether in whole or in part; and if there is default in the note, all you have to do is to notify the trustee that it is due; the trustee advertises the property for sale and sells it, paying the holder of the deed of trust the amount of the debt, principal and interest, and paying all costs of sale, and if there is a balance this is turned over to the maker of the deed of trust. I believe this would be a good form to adopt all over the United States.

GOVERNOR BLEASE—If I am incorrect, I hope that some gentleman of the Conference will correct me. I have no objection

to this resolution, but, as I understand it, this Governors' Conference, or at least the members, have been requested to go to the White House to morrow to discuss, or possibly to hear the Chief Executive of this nation upon this question; therefore I think it would be a good idea to postpone action upon this resolution until we have heard our distinguished host on that occasion and get his views direct upon this subject. While I come from a State that is rock-ribbed Democratic, I want to say that I don't believe the United States of America has ever had, or will ever have, a cleaner or a purer or more Christian man as their Chief Executive than the American Republic has today. If we were discussing political topics, I would say that I think he has been treated very badly, but as we are not making political discussions I will not go into this. However, I think it would possibly be a little hasty for this Conference to formulate a positive plan upon this proposition, in view of the fact that we are expected and expecting to attend a conference with the President of the United States at the White House tomorrow upon this question. Therefore, I move that this resolution be not adopted, but that the consideration of it be postponed until we have heard the distinguished Chief Executive of this nation in such manner as he desires to place his views before this Conference.

GOVERNOR HARMON—If we don't appoint the committee now, we can't act on the matter until next year.

GOVERNOR MCGOVERN—Mr. Chairman, I agree with Governor Mann that we should take some action relative to this subject, but I am inclined also to think with Governor Blease that postponement would be advantageous, and my reasons are additional to those he submitted. It may be a question as to whether or not the subject submitted to the committee contemplated by Governor Mann should not be broader than as defined in his resolution. In Wisconsin we have been considering the question of cooperation now almost two years, and there the topic is of broader aspect than in our consideration of it here, and I want to ask the Governors present whether they do not consider that, if it be a good idea to borrow the Raiffeisen idea from Germany, it is not also a good idea to borrow the plan of cooperative selling of farm products from Belgium, and if it may not be proper



also to borrow the plan of the distribution store from England. Cooperation has many aspects, and the financial side of it, or rural credit system under discussion here, is but one phase. This matter arose in Wisconsin through the creation of a board of public affairs. This board was instructed by the last Legislature to consider the whole question of the economic betterment of the State. As soon as we came to the second branch of the inquiry, we found facts such as our ambassador to France has mentioned—a decline in agriculture. Nineteen counties in Wisconsin have been standing still so far as population is concerned. Indeed, the population was less in 1910 than in 1900 in some of our agricultural counties. These facts brought the whole subject to the attention of the board in a serious way. We investigated the question of the cooperative selling of farm products. We found we had in our State some cooperative organizations; for instance, in Monroe county, for the sale of fruits. In other words, we found the spirit of cooperation abroad in the State for marketing the products of the farm and for cooperative buying of the commodities the farmers need. We believe the cooperation of the farmers in marketing their products and buying the articles they need will work out the problem of the rural banks and up-build agricultural conditions in America. I would like to see the scope of this committee broadened so as to include the whole subject of agricultural cooperation. We have gone further in Wisconsin and are trying the cooperative plan of settlement of lands. If we are going to consider this problem as it should be, why not take it in its broadest bearings, so as to be of value to the farmer in all his undertakings. We have worked for twenty years on the problem of better farming, and we have accomplished great results in the way of developing crop-bearing seeds and the development of soils, but meanwhile we have not made equal progress on the business side, to enable the farmer when he has raised a good crop to market it advantageously; and when we have made the farmer not only a good farmer, but a good business man, we will have restored him to his proper status, and the tendency to drift from the country to the city will cease. I would suggest some method of broadening that resolution so as to submit to this committee, should it be created, the whole subject of cooperative agriculture.

GOVERNOR GILCHRIST—I rise to second the motion of the gentleman from Virginia. This is the time, in my opinion, to appoint the committee.

GOVERNOR O'NEAL—I offer this addition to Governor Mann's resolution: That there be inserted after the words "rural credit banks" in his resolution these words: "and land mortgage and cooperative associations for the purpose of both buying the articles required by the farmer and selling his crops."

GOVERNOR MCGOVERN—I second that motion.

CHAIRMAN VESSEY—Gentlemen, you have heard the resolution offered by Governor Mann, and the amendment offered by Governor O'Neal and duly seconded, which will make the resolution read as follows:

"Resolved, That a committee of five members of this Conference be appointed by the Conference to prepare a bill to be submitted, after its approval by two-thirds of the Governors, to the legislatures of the several States by the Governors thereof, to provide for the establishment of Rural Credit Banks, and land mortgage and cooperative associations for the purpose of both buying the articles required by the farmer and selling his crops, with provisions sufficiently elastic to meet the conditions of every section and to meet the needs of all the people of the United States engaged in agriculture."

All in favor of the resolution will signify the same by saying, aye; those opposed, no. The resolution is adopted.

GOVERNOR BLEASE—I would like to be recorded as voting "no," for the reason I gave in my few remarks, that I think it would be a discourtesy to the President.

CHAIRMAN VESSEY—I might say, as information, that the legal representative of the President is here before this Conference and has been heard this morning.

GOVERNOR O'NEAL—I don't think any member of this Conference questions the absolute right of any member to entertain any opinion he may see fit on any question of law or administration; but I believe that certain utterances made during the course of this Conference demands in respect to public opinion a positive declaration of the attitude of this Conference on the question of law and its enforcement. There is no man who cherishes with more pride the proud traditions and noble ideals of the

South than myself. I don't believe that any country in any period of time ever produced a greater civilization or body of men than that civilization which, commencing with Washnigton, ended with Lee; but I recall the fundamental principle upon which that grand civilization was based was an absolute respect for law and order. I know that the spirit of the new South is to afford to the colored man that justice which a strong race always owes to the weak, to protect him in all his rights of person and property. We do not believe, however, that there should be any tendency to social equality, and we are not in favor of sharing with the colored man the responsibility of office; but I believe that the spirit of the new South is to see to it that the colored man is made happy and content; because he is an integral part of a vast industrial system. We are willing to share with him more than his just proportion of our educational funds. We propose to lift him up in our effort to advance his race, and we propose to guarantee to him, as to the humblest citizen of the land, the same protection of the law that we afford to the most powerful and wealthy citizen of the nation. (Great applause).

The Constitution of the United States, as well of our own States, imposes the duty upon each Executive that he shall take care that the laws are executed with equal justice to all. I do not believe that any condition of crime exists in the South, or in any State of the Union, for which mob violence furnishes a remedy. I believe that our peace and our security in this country depends, not upon an armed constabulary, nor upon a standing army, but that we can read the progress of a government whose institutions are founded upon the rights and fortified upon the intelligence of the people alone for the majestic supremacy of the law. I have no desire today to engage in a personal controversy with any man on any views that he may express here; but I am profoundly impressed with the opinion that in view of the fact that certain utterances subversive of law and order have been made in this Conference and published to the world, that we should put this Conference of Governors on record as opposed to such views. I therefore offer the following resolution:

Resolved, That this Conference of Governors does not undertake to control the individual views of its members upon any questions of law or administration; it declares that this govern-

ment is based upon the fundamental principle of law and order; that the Constitution of each State imposes upon its Chief Executive the supreme duty of taking care that the laws shall be faithfully and equally enforced; that it advocates all proper methods for strengthening and simplifying our methods of civil and criminal procedure. This Conference protests against any disposition or utterance by those entrusted with the execution of the law in any of the States of this Union which tends, or could be construed as tending, to the encouragement or justification of mob violence, or interference with the orderly processes of the law.

GOVERNOR DONAGHEY—Mr. Chairman, my actions as an official and as a citizen are well known. I have in all of my private life and public life condemned mob law; but to come here in a Conference such as we have and undertake to bridle the expression of any member I think would be unwise. The resolution is well meant, yet I doubt that it would have the effect intended. Each of us is responsible to our constituency for our utterances, and that constituency is composed in every case in the States of this country of a great people, and I therefore think that it would be unwise for the Conference to go on record just in the manner proposed. As I said, my official and private life is well known as being opposed to mob law in any form.

GOVERNOR MANN—I offer as a substitute to Governor O'Neal's resolution the following:

Resolved, That it is the sense of the Governors' Conference, in session at Richmond, Va., December 6th, 1912, that the whole power of the several States should be used whenever necessary to protect persons accused of crimes of every kind, against the violence of mobs, and to provide for speedy, orderly and impartial trials by courts of competent jurisdiction, to the end that the laws for the protection of life and property be duly enforced and respected by all the people.

GOVERNOR O'NEAL—I accept that as expressing more clearly the idea that I intended to convey in my resolution.

GOVERNOR KITCHIN—In my judgment, that resolution is entirely unnecessary. I doubt whether there is a single Governor in the United States that holds the same views that the Governor of South Carolina holds, according to his speech of yesterday. This resolution is clearly intended as a gentle rebuke to the opin-

ions of the Governor of South Carolina. In my judgment, it will be most unwise for the Governors' Conference to undertake to set forth in a resolution the view of a majority of its members, however overwhelming that majority may be, in contra-distinction to the views of a minority, however small that minority may be. It has been the custom heretofore in these meetings to discuss such matters as came up before the conference and to give the views of the gentlemen who participated in these discussions, but they came to no conclusion thereon. If this Conference is now going to, by a majority vote, set forth its difference from others in this matter it will, I think, be doing an unwise thing; the usefulness of this Conference, in my judgment, will be nearing its end when we begin to condemn minorities of it. Of course, I am no defender of the gentleman from South Carolina; he is amply and well able to take care of himself, whether he is right or wrong, in any controversy. I am sure that the whole country understands, from Maine to California, that the Governors who attend this conference all believe in the supremacy of the law; all against mob law; all in favor of fair and impartial trials, and every man in this nation assumes that every Governor holds these views, and nothing but the expression of the Governor of South Carolina could have convinced any member here that there was an exception to that opinion. This resolution may be regarded as a precedent hereafter for majorities to bring about factional contests in this Conference. I believe it would be best for the Governors' Conference and for their reputation in favor of the enforcement of the law to take no action whatever in regard to the views expressed by one of our fellow Governors. I would be glad to see this resolution withdrawn. I know every man in this audience, unless it is the Governor of South Carolina, approves the eloquent speech which the Governor of Alabama made. I wonder, myself, if we could justify a resolution of censure in the eyes of the public. We do not know how the conditions have been in South Carolina which constrained a man of excellent ability to reach the conclusions that he has reached in regard to mob violence; but you may recall that the utmost extent to which he went, as I recall it, was that when he stated that if the Constitution of his State stood in the way of his protecting the virtue of the women of South

Carolina, that then he would do so and so. But there is a great fact that stands undisputed, and that is that the laws and Constitution of the State of South Carolina and of no other State in the Union stand in the way of the protection of woman; on the contrary, the laws and Constitution of his State, and my State, and your State enjoin that ample protection be furnished and provide adequate and speedy punishment for those who violate those laws. I think that the dignity of this body ought to assume that the general public thoroughly understands that the Governors' Conference is a law enforcing body of men. It strikes me that it rather belittles the law abiding reputation of the Governors for the Governors themselves (who have each taken the oath of office to uphold the law) to parade the fact that they are law abiding, and to go on record here in order that the public may be impressed with the attitude of the Governors' Conference on this matter. Looking at it in this spirit, I trust the gentleman from Alabama will withdraw his resolution in that spirit, and no other. I will make no motion to lay it on the table, because I believe these Conferences ought not to take any direct and positive action. I started to raise this question just now when the Governor of Virginia introduced his resolution in regard to the rural credits question, which provides that a committee of five members of this Conference be appointed by the Conference to prepare a bill, to be submitted after its approval by two-thirds of the Governors to the Legislatures of the several States by the Governors thereof to provide for the establishment of rural credit banks, etc. I doubt the wisdom of having anything in it that would require or request the Governors to submit it to their Legislatures.

CHAIRMAN VESSEY—This resolution has received no second.

GOVERNOR GILCHRIST—I second the resolution.

GOVERNOR HAWLEY—Thoroughly in accord as I am with the sentiments expressed in the resolution offered by Governor O'Neal and amended by Governor Mann, I cannot help believing that the position taken by the Governor of North Carolina is absolutely correct, and in so stating I do not desire to be understood as objecting to the word or spirit of this resolution. I am a believer, officially, and have ever been in private life, in

the enforcement of the law. I have tried to see that our laws were thoroughly enforced. I have, while a private citizen, risked my life in an endeavor to prevent mob violence. But here when we as a Conference of Governors attempt to take any action that would in any sense cast a reflection upon any Governor, and necessarily, therefore, upon any State, I believe we are exceeding our duty, going beyond the very object of our Conference, and for that reason and no other I am opposed to the resolution, although again repeating that I am in favor of the spirit of it.

GOVERNOR GILCHRIST—This is a short way of the Governors putting themselves on record by voting on that resolution. The gentleman from Idaho has just put himself on record as opposed to mob violence, although opposed to the resolution being passed, and there is not a gentleman present who would rise in opposition to that resolution who would not put himself on record as being opposed to mob violence. So far as I am concerned, as far as any discourtesy to any Governor of any State of the Union is concerned, I would be opposed to that; but, as I understand that resolution, it simply gives every one of us a short method of going on record as to our views in regard to the sentiments expressed in that resolution. The gentleman from Virginia has gone on record, the Gentleman from Georgia has gone on record, and so on, and now I am for my satisfaction going on record. I have three or four times turned out the militia and protected prisoners. There was a case of a negro who had committed a crime against a white woman. I moved him from one jail to another, eighty miles distant, to protect him. He was afterwards lynched. I had detectives put on the case, secured some of the parties, got a special State's attorney and secured two indictments at an expense of \$1,200 or \$1,500 out of the contingent fund of the State. On this question of mob violence I want to go on record as being opposed to it, and I also want to go on record as being opposed to any reflection on any Governor of any State.

GOVERNOR MCGOVERN—I am very sure that some of the Governors misunderstand the purport and object of this resolution. It is unfortunate that it should be necessary to offer such a resolution; but the incidents of the past few days have made it neces-

sary—not to reflect upon the Governor of any State, but merely to define the opinion of each gentleman in this Conference on this subject. The Governor of North Carolina says the motion is unnecessary, because it naturally would be assumed that every Governor is opposed to mob law. Yet the Governor of North Carolina thought it was necessary for him to state his views individually, and if it be necessary for individuals to rise here and state their views, then it is necessary for the Conference as a whole to state its position upon a matter that has been intruded here. We have made this Governors' Conference permanent. For one, I believe it is an important institution, with work of the highest value to the people committed to it; that its future means much not only to the men who are Governors, but to the welfare of the people of America. It is an institution that may be made highly useful to every one. We cannot afford to do anything or to forego doing anything necessary to place this Conference right before the American public. We cannot afford to rest under the assumption that the people of this country will take it for granted that we do not approve the views expressed by one of its members. We know there are men who approve the sentiments that have been expressed here by one of the members of this Conference, but the Governor of any State is the last man in America who should give public expression to such a thought. When it has been expressed here as it has, it is our duty to put ourselves on record, so the public may know our views on the matter. We regret that some think it may be construed (by some it has been so construed already) as a limitation of free debate here. It is not necessary that it should be so construed; but it is imperatively necessary that we should correct the impression that has gone forth in the reports of the deliberations of this body, as published by the metropolitan press of the country, that this body of executives, whose first principle is to uphold the law, condones such utterances as those that have been voiced here by a member of this Conference. On the other hand, we should assert that the Governors believe it is their duty to enforce the law in every respect.

GOVERNOR DONAGHEY—The discussion comes up at the wrong time. When it was started the Chair should have ruled the gentleman from South Carolina out of order, and then the question



should have come up as to sustaining the Chair; but to bring it up now is a reflection on a member of this Conference, which I maintain no member of this Conference has a right to do.

GOVERNOR BLEASE—Mr. Chairman, I hold in my hand four communications which I have received this morning, threatening my life. One has just been handed me, addressed to me, in care of Governor Mann——

GOVERNOR MANN—I don't know anything about it.

GOVERNOR BLEASE—It is a private letter and there is no reflection upon you, Governor Mann. Mr. Chairman, I am not expressing the views of any gentleman in this Conference, but my own. The newspaper headlines have done me a great injustice. I said in my speech in this Conference on Thursday that I would never order out a military company with instructions to shoot down their neighbors and their friends in the defense of certain people. I care not to repeat the language now; but I said it then and meant it and mean it now; because I would never order out a military company of my State, or a regiment of my State, of which I am the commander-in-chief, to do that which I would not do myself. If that be treason to the Constitution of South Carolina, in the words of the great Virginian, "make the most of it." The headlines in some of the papers stated that I said Jack Johnson would have been lynched in South Carolina. I made no such statement. I said that under the laws of South Carolina that condition could not have arisen, because we did not allow intermarriage of the races, and if a ceremony of that kind had been performed both the man and the woman would have been locked up; but I predicated it further upon this statement: I said that it depended upon the locality of South Carolina where that marriage took place whether it would have been kept within the legal bounds, and I repeat it now.

Now, as to your resolution, that absolutely gives me no concern. On the 21st day of January, 1913, I will be sworn in for a second term as Governor of South Carolina. If God Almighty spares my health and strength, on the 4th day of March, 1915 (if He should will it) I will represent South Carolina in the greatest council of this nation, the United States Senate, and your resolution can't keep me from it. Why? Because, Mr. Presi-

dent, I have never believed (with all due respect to some gentlemen, one of whom was my choice for President of the United States—and I think we would have made a wise selection if we had chosen Judson Harmon of Ohio)—yet I have never been one of the Southern States' representatives who believed in apologizing to the North for any views I held; I have never done it, and I never expect to do it. That is my position, gentlemen, as much as I think of a good many of you personally, and whether you pass that resolution or not is a matter of indifference to me. Some of you who may vote for it will be resting in the shades of private life when the Governor of South Carolina is still enjoying the plaudits of his constituency. Now, Mr. President, what does your resolution mean? Not speaking of myself at all. Far be it from that. But your resolution is intruding upon a province of this Conference upon which we have no right to intrude. I thank the Governor of Arkansas; I thank the Governor of my sister State, North Carolina (although we can't exchange the usual courtesies, because he is a Prohibitionist)—I thank them for their kind words. I see that they are right. But when a man has stood, as I have, in the face of a united press, against the corporations, with all their monied interests, against the Chief Justice of my State, and with all of it defend myself and my position and won the approval of the white men and the white women of my State, I don't care what you, as a Governors' Conference, or anybody else, think about it. If there be one thing I have credit for, thank God, it is for being plain spoken, and, thank God, I hope honest. I conceal nothing. If you, Mr. Chairman, or any gentleman will get up and ask me any question in regard to any matter, I will answer it; but the Governor of North Carolina struck it strong and answered the criticism positively when he says that the Constitution of your State, nor mine, ever reached the point that it is prohibitive of you to defend the virtue of the women of your State, and in answering the question of the Governor from Wyoming, when it is said some ladies left the hall (to which I have no objection) when that question was answered, I said, "Yes, Governor," and possibly you heard of me when I said, "To Hell with the Constitution;" that was accredited to me in my campaign. I said it in the capital of South Carolina in the presence of thousands, and I said

it when I was asked by my opponent the very question that the Governor of Wyoming asked me yesterday, and when my opponent hurled in my teeth the statement that I had sworn to obey the Constitution of South Carolina, my reply to him was then as expressed by the Governor of North Carolina in his little talk. My reply to the Governor of Wyoming and my reply to the American nation today is what I said then—it is not necessary to repeat it. Now, what do you hope to accomplish by your resolution? Why, Mr. President, I will have it engrossed and will take it with me on the stump in South Carolina, and I will show what the Governors' Conference (composed of the Governors from many of the States of the Union) passed as a resolution. I will take pleasure in taking it and showing it to them and asking what their opinion is, and ask South Carolina, "Do you endorse those who don't know the conditions in South Carolina, or endorse your Governor?" And I say again, when some of you will be resting in the shades of private life, the white women of South Carolina will be kneeling at their bedsides with their arms around their little twelve and fourteen-year-old daughters, praying that they may be relieved from the necessity of a mob, and will in the prayer, when they wind it up, pray God to bless the man who stands ready to defend them; and, like they did on the 27th of August, as their husbands leave for the farms, the factory, the machine shops and their other occupations, will reach up and kiss them and say, "Don't forget to vote for Blease, because he protects the white women of South Carolina!"

Pass the resolution! I would not give that for it. (The speaker at this point snapped his fingers).

I would not apologize for a word I have said if you were going to expel me from your Conference. South Carolina once took a position almost alone. The other States later came to it, and today every Southern man loves old Richmond and loves Richmond's history and Richmond's people because of the record that Richmond and Virginia's people made in that great contest.

Now, Mr. Chairman, I only arose for the purpose of correcting possibly the headlines which were printed in the newspapers, not particularly to speak upon the resolution, because I care nothing for it. But, gentlemen, you hold such views as you please; act

as you please; send out to the world what you please; but let it still be understood that I concur in the views of the Governor from Idaho, whose remarks, along with two other Governors that I have mentioned, were particularly applicable to the occasion. But if a maudlin sentiment dictates to you the theory that your Conference is responsible for what I said—not that you approve of it—but you are taking notice of it, and thereby admit that you have to go on record to show to the world that you don't approve of what the Governor of South Carolina said—go ahead with your resolution. Then when the Governor of Wisconsin reaches home his constituents will say, "We are glad you took the stand you did against the views expressed by the Governor of South Carolina." And when the Governor of Wyoming gets home, his people will say, "We are proud to know that you did not endorse that South Carolinian in his ideas about lynch law." And when the Governor from Connecticut arrives at home—distinguished and learned, the equal of any, if not possibly the superior—he will be greeted with the words, "We are mighty proud you went on record as not approving the awful lawlessness expressed by that dreadful Governor of South Carolina."

Why, you are making yourselves ridiculous in the eyes of all people, if you stop and think.

And now, Mr. President, in conclusion, allow me to say that whatever may be your resolution, if I have said one word that would cause any woman in Virginia—and I say Virginia because she stands up at the very topmost pinnacle in the virtue and purity of her womanhood (applause)—if I have said one word that would cause them to blush with shame, if I have said one word that would cause one of them the slightest embarrassment, I apologize to them—I say I apologize to you; I beg your pardon. (Applause).

But, I assure you women of Virginia, I assure you Governors, that whenever in South Carolina a negro brute lays his hands upon a white woman, the sooner his dead body is placed six feet under ground the better for the virtue and womanhood of the Southern States and of South Carolina.

GOVERNOR BALDWIN—This is a serious question. I think the Governor of North Carolina was fully right—the tendency of this motion is to stifle the free expression of opinion here. It

seems to me that the occasions are few that can warrant an affirmative action by the Governors' Conference unless unanimous. In the old days the law of Poland required the unanimous vote of the electorate there before they could elect a king, and when the Diet elected a king the practice was adopted of killing all the minority and then electing a king. We know that this resolution will not receive the unanimous consent of the members here, and I move it be laid on the table.

The motion was duly seconded.

GOVERNOR CAREY—I did not ask the question yesterday with any idea of raising a discussion. But what South Carolina does is important so far as every other State in the Union is concerned. The mob law in the South was a comparatively new thing. It will spread across the boundaries of the State; it has spread. We out West found it was practiced in the earliest history of that country, but the people soon got control of themselves and stopped lynch law. When I was a very young man it was my good fortune to save the necks of three young men from the South. They were negroes. They were accused of stealing horses, and a mob had them and were about to hang them. I appealed to the mob. I said, these men may be innocent. They listened to reason, and those colored boys were put back in prison and afterwards cleared in the courts and found in no wise guilty of the charge. What you do in South Carolina spreads all over the other States. I do censure the Governor of South Carolina for claiming to have a monopoly in South Carolina for loving and defending their women. I don't know of an English speaking people anywhere but what will forfeit life if necessary to protect women. They love them just as well in Canada; we love them just as well in Wyoming as they do in South Carolina, and I want to say to him that since woman's suffrage was adopted in Wyoming I have been to the mines, I have been to the towns and cities, and I have never seen a case where a woman approached the polls but what the men—even the coarsest men—would stand back and take off their hats and recognize the women; there has never been a fight or disagreement, and I want to tell him we love the women there, too. But we believe the courts, under proper conduct, will uphold the law. It is the duty of the Governors now to say to the world, so far as this

Conference of Governors of the States is concerned, that we condemn mob law wherever it takes place, and will use all our influence to enforce the law.

GOVERNOR HADLEY—I entirely agree with the Governor of Arkansas that there was a more proper time for this Conference to place itself upon record in this matter, and if this Conference is to be made a clearinghouse for local and personal controversies then the days of the usefulness of this Conference is at an end; but since certain statements have been made here and declarations have gone on record without challenge, I feel, as a representative of a State that extends further south than the Old Dominion, speaking the sentiment of all her people, I believe this Conference should place itself upon record in order that it may not be misunderstood by the American people. Therefore, I believe the motion to lay the resolution on the table should not be carried.

GOVERNOR DIX—I think it unwise to lay that resolution on the table. Representing one of the Northern States, I wish to protest against any such action.

GOVERNOR GOLDSBOROUGH—I represent a State standing at the foot of the tier of the States of the North and at the gateway to the South, I believe. My State is a sister State of Virginia. It is a State of conservative people. This question before this house is one of the maintenance of a principle against a supposed courtesy to a Governor of this Conference. It is a question of right against wrong. It is a question of the maintenance of law against disorder. I know that I shall stand solidly by the resolution offered by the Governor of Virginia, and I trust it will have almost the unanimous support of the members of this conference.

CHAIRMAN VESSEY—We will now vote on the motion to lay the resolution on the table.

GOVERNOR MCGOVERN—I move that the vote be taken by States. The motion was duly seconded and carried.

The following was the vote on the motion to lay the resolution on the table:

Alabama: No.

Arkansas: Aye.

Connecticut: Aye.

Florida: No.

Georgia: No. Governor Brown—Just one word in explanation of my vote. I will say that the State of Georgia does not admit that it must depend upon mobs to mete out summary punishment upon those who commit outrage on her women. She will do that by her own proper and legal methods. Hence I vote No.

Idaho. Governor Hawley—I shall vote in favor of this resolution, because I think the whole subject matter is beyond the province of this Conference; therefore, I vote Aye .

Maine: No.

Maryland: No.

Minnesota: No.

Nevada: No.

New York: No.

North Carolina: Aye.

Pennsylvania: No.

South Dakota: No.

Utah: No.

Virginia: No.

Wisconsin: No.

Wyoming: No.

CHAIRMAN VESSEY—The motion of Governor Baldwin to lay the resolution on the table is lost, the vote standing 14 to 4.

GOVERNOR BLEASE—When the name of South Carolina was called I did not answer, because it makes no difference to South Carolina what the Conference does.

CHAIRMAN VESSEY—We will now vote on the original resolution. All those in favor of the resolution will make it manifest by saying Aye; those opposed, No. The ayes have it; the motion is carried.

On motion, duly seconded, the Conference adjourned, to meet at 4 P. M. at the same place.

## AFTERNOON SESSION

The Conference convened at 4 P. M., pursuant to adjournment at the morning session.

GOVERNOR PLAISTED in the chair, called the meeting to order.

Ex-GOVERNOR FORT, of New Jersey—Mr. President, during this session of the Conference in the city of Richmond we have had such a charming time, Governors and ex-Governors, that it seems only proper, and, of course, a pleasure to put on record our appreciation of the hospitality and courtesies shown us, and I offer the following resolution:

The Governors present at this, the fifth annual Conference of the Governors of the several States of the American Union, desire to put upon record their expression of appreciation of the courtesy and hospitality extended to them by the citizens of the historic city of Richmond and the commonwealth of Virginia. No one coming to Richmond, under circumstances like ours, would care to leave; it has been one round of enjoyment and typical Southern hospitality. To Governor Mann and the Mayor, especially, and to all citizens' committees who have aided them, we extend our thanks and appreciative acknowledgements; they have made our stay in Richmond days of supreme delight.

I move the adoption of this resolution and that it be spread on the minutes of this Conference.

The motion was duly seconded.

CHAIRMAN PLAISTED—Gentlemen, you have heard the resolution of thanks offered by ex-Governor Fort, of New Jersey. It is moved and seconded that the same be adopted and spread on the minutes of this Conference. Those in favor of the motion will say, Aye; those opposed, No. The resolution is unanimously carried.

CHAIRMAN PLAISTED—Is there any other business to come before the Conference?

GOVERNOR MANN—I think the committee provided for by the resolution I offered this morning ought to be appointed by the Conference—the committee of five to take into consideration the rural credit question.

GOVERNOR HARMON—I move that the present Chairman appoint that committee and take due time to announce it. We want



five men who have the time and who will remain in office long enough to serve on this committee.

The motion was duly seconded.

CHAIRMAN PLAISTED—It is moved and seconded that the committee of five on rural credits be appointed by the present Chairman and that he shall announce that committee later. Those in favor of this motion will say, Aye; those opposed, No. The motion is unanimously carried.

GOVERNOR HARMON—I move that we adjourn, to meet with the President tomorrow in Washington, pursuant to his invitation of October 11th, 1912.

GOVERNOR O'NEAL—I second the motion.

The motion was unanimously carried.

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#### The President's Invitation to the Governors:

BEVERLY, MASSACHUSETTS, October 11, 1912.

My Dear Governor:

For some months past, at my direction, the Department of State, through its diplomatic officers in Europe, has been engaged in an investigation of the agricultural credit systems in operation in certain of the European countries. Although the investigation is still under way, a preliminary report has been submitted, together with the recommendations of Ambassador Myron T. Herrick, in connection with my proposal to adopt this system in the United States.

A study of these reports and of the recommendations of Ambassador Herrick, which I am sending you, convinces me of the adaptability to American conditions of the cooperative-credit plan as set forth in the organization of the Raiffeisen banks of Germany. The establishment and conduct of such banks, however, are matters for State control. I suggest, also, the establishment of land-mortgage banks under State charters and the formation of cooperative mortgage-bond societies along the lines of the *Landschaften* societies of Germany, provided that uniform State legislation can be secured to govern their organization and operation. As a later step I favor the enactment of laws by Congress

permitting the organization of national land-mortgage banks, to be operated under strict government supervision, with the power to guarantee and market the guaranteed debenture bonds of the State land-mortgage banks or cooperative societies. I recommend for your consideration the report and recommendations of Ambassador Herrick, now published by the Department of State for general distribution. This report should receive the attention of everyone interested in the problem of agricultural finance and, indeed, of all persons interested in the welfare of the American farmer.

The need for the establishment of an adequate financial system as an aid to the farmers of this country is now quite generally recognized. The governmental initiative, taken by the Department of State under instructions issued by my direction to the diplomatic officers in Europe on March 18th last, have been effectively supplemented by the American Bankers' Association, the Southern Commercial Congress, and by many other bodies by whom this question has been agitated, and valuable work has been done in studying and disseminating knowledge of those great instrumentalities which have been created in foreign lands to extend to their agriculturists credit facilities equal in benefits to those enjoyed by their industrial and commercial organizations. The handicap placed upon the American farmer through the lack of such a system and the loss sustained by the whole citizenship of the nation because of this failure to assist the farmers to the utmost development of our agricultural resources is readily apparent.

That more than 6,000,000 farms in the United States add each year to the national wealth products with a gross value of between 8 and 9 billion dollars. The number of farm workers—including owners who work their own farms, tenants, hired laborers, and working members of the families of farmers—probably exceeds 12,000,000, and the farm population must approximate 35,000,000 people. The most recent statistics show that one-third of all farm owners who operate their own farms report mortgage indebtedness. Excluding farms operated by tenants and hired managers, the reports show that the value of the land and buildings for the farms of the more than 1,000,000 resident farm owners, for which both the fact of mortgage indebtedness

and its amounts were reported, was \$6,330,000,000. The amount of the debt was \$1,726,000,000. On this sum they pay annually interest charges of nearly \$150,000,000. Doubtless, in addition, large numbers of the farms operated by tenants and managers are mortgaged by their owners. Farmers also borrow hundreds of millions of dollars on chattel mortgages, growing crops, personal notes, and other securities. Counting commissions and renewal charges, the interest rate paid by the farmer of this country is averaged at  $8\frac{1}{2}$  per cent, as compared to a rate of  $4\frac{1}{2}$  to  $3\frac{1}{2}$  per cent paid by the farmer, for instance, of France or Germany.

Again, the interest rate paid by the American farmer is considerably higher than that paid by our industrial corporations, railroads, or municipalities. Yet, I think, it will be admitted that the security offered by the farmer in his farm lands is quite as sound as that offered by industrial corporations. Why, then, will not the investor furnish the farmer with money at as advantageous rates as he is willing to supply it to the industrial corporations? Obviously, the advantage enjoyed by the industrial corporation lies in the financial machinery at its command, which permits it to place its offer before the investor in a more attractive and more readily negotiable form. The farmer lacks this machinery, and, lacking it, he suffers unreasonably. That is not theory. Through all the changing conditions of a century the soundness and practicability of such financial machinery, based upon the peculiar credit needs of the agriculturist, has been tried out, and so successful has been its operation that in Germany, in times of financial stress, money has been taken out of the commercial field and placed in the keeping of that Empire's agricultural cooperative banks for safety. The value of this assistance to the farmer receives unquestionable testimonial in the growth of the system in the countries of Europe. More specifically this advantage may be seen in the fact that through this machinery the German farmer has received money, at times, at rates lower than those current in commercial loans.

But the advantages to be gained by the adoption of this plan go beyond the direct saving in interest charges to the farmer. The great necessity which prompted the establishment and extension of this plan throughout Europe was that of checking the rapidly advancing increases in the cost of foodstuffs, brought

about by the inevitable increase in consumption and the failure of the long-drained soil to afford a corresponding increase in production. That problem faces the people of this country to-day—not in so severe a form as it threatened the older countries of Europe, but, still, as a great and pressing economic problem.

In Europe this problem has been successfully met, first, by reducing the cost to the farmer of producing his crops and, secondly, by increasing his production through the adoption of improved methods of cultivation. Both the federal and State governments of this country have done much to afford the farmers instruction in improved agricultural methods. But it still remains for us to reduce the cost of the farmer's production by affording him the necessary capital for the exploitation of his soil upon the most advantageous terms. He must be afforded the money necessary for him to adopt improved methods. It must be made profitable for him to place every acre of his ground under cultivation. This offers the consumer relief from the increasing cost of foodstuffs.

It is this portion of the task that still remains to be performed in this country, and it is in this task that I invite your cooperation.

The country today enjoys great prosperity. The factories are busy, the workingmen employed, and everywhere the wheels of industry hum. The farmer shares in this general prosperity. We have come to look upon the farmer of today as one of our most prosperous citizens. The proposal which I make is not to subsidize the American farmer. Fortunately for this country he does not need it, nor would he accept it. What this plan offers is a means to secure to this country greater productivity, at less cost, from the farms that are now under cultivation, and, above all, to give us more farms and more farmers. It will make it profitable for the farmer to return to the cultivation of the abandoned farms of the East and to open up the vast areas of untilled land in the West.

All this can be done, and I am convinced that in this country it must be done, by the efforts of the farmer himself. It is natural that some of the European governments should have extended a paternal protection over the systems of agricultural finance and to have given them financial as well as legal assistance. This,

however, must be guarded against in this country. We must establish a credit system of, for, and by the farmers of the United States. It were better, otherwise, not to consider the matter at all. It is an interesting commentary on the value of paternalistic government support to note that this plan of agricultural cooperative credit has thrived best—in fact, has enjoyed a substantial development only—in those countries where the movement has grown up from the farmers and where the government has to the greatest degree refrained from attempts artificially to nurture the plan of subsidy and has restrained its interference to the proper field of imposing restrictional legislation for the purpose of preventing speculation.

The entire field of agricultural cooperative credit is properly divisible into two parts: First, the cooperative societies of farmers, formed for the purpose of obtaining personal credit; and, secondly, the societies or private corporations formed to create a sound security in land mortgages for the purpose of gaining a national or international market for bonds based upon farm-land mortgages. Both of these forms of cooperative credit may be found in many of the European countries under varying forms of organization. The general principles, however, are very much the same.

It is not practicable here to go into the details of the organization followed in European countries in the formation of these cooperative societies. A very good law has been enacted by the State of Massachusetts allowing the incorporation of credit unions, which should furnish an excellent example for other States. Their establishment is generally a matter for State legislation and encouragement, their organization and management are wonderfully simple, and the experience of the European countries shows that their success is practically inevitable where the environment is congenial to their growth and where proper laws are passed for their conduct. Although undoubtedly the organization followed in the European countries could not be adopted in its entirety in this country, I would advocate the general principles followed by the so-called Raiffeisen banks of Germany. These smaller societies should restrict their loans to personal credit. They are not intended to make large loans on land mortgages, although, indirectly, the lands of all the members

form the security. Above all, the cardinal principle should be followed that all money loaned should be for a strictly creative purpose. No loan for the purchase of anything merely for consumption should be tolerated.

The business of furnishing money as loans on real estate is the proper province of the cooperative societies or private corporations, which I have placed in the second class. In Germany this is done through cooperative societies known as *Landschaften* and through mortgage banks. In France it is done through the *Credit Foncier*.

The chief advantages brought to farmers through such institutions are lower interest rates and easy amortization, whereby the borrowing farmer may repay his loan bit by bit, extending these payments over a long number of years. Thus, his obligations are made proportionate to his annual receipts from the exploitation of his soil, and the danger of foreclosure is vastly reduced. To appreciate what this amortization plan would mean to the farmers of this country, it is only necessary to consider the foreclosure records of some of our States.

It is not my purpose here to lay down any one plan as necessarily the one most suitable for adoption in the United States. From the reports of our ambassadors and ministers in Europe and from the recommendations of Ambassador Herrick, to whom was given the task of compiling from these the general report, I am inclined to suggest the suitability of organizations similar to the German land-mortgage banks for incorporation under State charters in this country. It will be most desirable, if not, indeed, essential, that the laws creating and governing such institutions should be uniform throughout the States, in order that they might be well understood by the investor, and their debentures should be given character both at home and abroad. As a later step it may prove advisable to urge the enactment by Congress of laws permitting the creation of national land-mortgage banks similar to those of Germany and France, with limited privileges, and surrounded and guarded by strict supervision, but with sufficient appeal to American initiative and opportunity, with the power to guarantee and market a guaranteed debenture bond of the State mortgage bank or cooperative society. Securities issued by such national institutions would

probably find a ready market in Europe at low rates of interest, since they are a favorite and familiar form of investment in those countries by the conservative investor.

The most essential point to bear in mind is the need for the assumption by the federal and State government of the responsibility for economically and honestly conducted institutions. Such assumption is the essential precedent for obtaining the confidence of the American as well as the European investing public. In this field, as in all others, there is room for harmful exploitation for personal gain. That must be guarded against. Therefore, I invite you to make this matter the subject of earnest study and exchange of views between the State Executives, and I now extend to you, with the Governors of the other States, a cordial invitation to confer with me in Washington, on the occasion of the next annual Conference of Governors, in order to consider means for the adoption of an agricultural credit system as a benefit to the American farmer. I understand that the Congress of Governors is to occur in December. Were not the interval so short, my conviction of the importance of this subject would impel me to invite you to a special conference at a still earlier date.

Renewing my request for your hearty cooperation in a work of such nation-wide benefit to the farmer, the consumer, and, indeed, to the nation at large, I am, my dear Governor ———,

Very sincerely yours,

WM. H. TAFT.

His Excellency, ———, Governor of ———.





## FIFTH DAY

Pursuant to adjournment at Richmond on the afternoon of December 6th, and by invitation of His Excellency, President Taft, the Conference convened at the White House, Washington, D. C., on the afternoon of December 7th, A. D. 1912, for a conference with the President on the subject of Rural Credits.

### PRESENT:

President Taft  
Governor O'Neal, of Alabama  
Governor Shafroth, of Colorado  
Governor Baldwin, of Connecticut  
Governor Gilchrist, of Florida  
Governor Hawley, of Idaho  
Governor Plaisted, of Maine  
Governor Foss, of Massachusetts  
Governor Eberhart, of Minnesota  
Governor Hadley, of Missouri  
Governor Goldsborough, of Maryland  
Governor Oddie, of Nevada  
Governor Dix, of New York  
Governor Harmon, of Ohio  
Governor Tener, of Pennsylvania  
Governor Blease, of South Carolina  
Governor Mann, of Virginia  
Governor McGovern, of Wisconsin  
Governor Carey, of Wyoming  
Governor Glasscock, of West Virginia  
Governor Brown, of Georgia  
Governor Carroll, of Iowa  
Governor Norris, of Montana  
Governor Kitchin, of North Carolina  
Governor Vessey, of South Dakota  
Governor Spry, of Utah  
Governor Donaghey, of Arkansas

Secretary of State Knox  
Secretary of the Treasury MacVeagh  
Secretary of Agriculture Wilson  
Senator Duncan U. Fletcher  
Representative William Sulzer  
Representative James M. Cox  
Representative Louis B. Hanna  
Hon. Myron T. Herrick  
Secretary to the President Charles D. Hilles  
Major Thomas L. Rhoads  
Dr. Johnson  
Miss Noa  
Secretary of the Governors' Conference Miles C. Riley

The Chairman (Governor McGovern): The President desires to speak to the Conference just for a moment, I believe, on the subject of Rural Credits.

PRESIDENT TAFT—Governors, Ladies and Gentlemen, and other Guests:

I have seized the opportunity of your presence at your convention at Richmond to ask you to do me the honor of lunching with me, both in order that I might enjoy your company, and also because I hoped that I might give at such meeting a bit of emphasis to the importance of the project of making easy farm loans, to which I ventured to invite your attention by my letter of October 11th.

You have had the subject discussed at your meeting in Richmond, and I do not intend to prolong that discussion, because my knowledge of the details is not greater than yours, and probably, after your discussion, not so great as yours.

No one who studies the statistics of this country and observes the trend of affairs can be blind to the importance of the development of our agriculture, and the intensifying of our farming methods in such a way that the land now used shall produce double or treble what it has been accustomed to produce in the past. The Agricultural Department has been seeking to wrest from nature her secrets, so that the farming of the country shall be done on better scientific principles, and the rate of production per acre shall be increased. It is well, and indeed it is neces-

sary, that these new methods should be studied and adopted if we are to bring about necessary improvement; but our farmers can hardly do this unless in some way the additional capital is furnished them which is indispensable to such an improvement of agricultural methods.

We have capital in this country, and we have farming property that is producing farm products of immense value. It would seem clear that with these two elements it would be possible to introduce a third, by which the farmer engaged in producing the crops should be able, in view of the value of what he produces and the value of the land on which it is produced, to obtain money on the faith of the land and the faith of the product which will enable him to expand his acreage and better his methods of cultivation and production. This is a field in which those who are clamoring for progress, and who are looking to the government to furnish ways of progress, may well devote their attention, for this is real and practical.

An easy exchange between capital and farmers, with proper security, has been established in European countries where the rate of interest has been lowered so that the farmer is on practically the same basis of advantage in the borrowing of money to aid his farming as the business man is in borrowing money to aid and carry on his business. If this can be done abroad, it can be done here; and if abroad we find that government institutions adapted to form the conduit pipe between capitalists and farmers are successfully operating, why should we not adopt them here? I am quite willing to agree that conditions here are different from those in Europe, and that such conditions may make necessary a modification of the methods adopted to produce the flow of capital to the farms and the return of proper security to the capitalist, but the general plans adopted abroad can be amended to suit the peculiarities of the present conditions, and a convention of Governors, representing all the States of the Union, is the place where such methods ought to be discussed, with a view to adopting uniform legislation in all the States to secure the desired end.

I am glad to learn that a committee of Governors is to be appointed to examine plans, and, having adopted the best ones, to recommend the uniform legislation necessary to carry them out.

If federal legislation can be of material benefit, I doubt not that it can be secured.

We are not going to adopt a system over-night. It is going to take a considerable time before the country shall receive the benefit of it, but the earlier we begin the agitation, the earlier we shall achieve the purpose we have in bringing the matter to the attention of the public.

There is no subject matter of greater importance to the people of the United States than the improvement of agricultural methods, the keeping them up to date in all agricultural communities, the securing of profit to the farmer, the attraction of the young men to the country to farming as a lucrative profession, and the lowering of the cost of producing agricultural products, and the lowering of their prices to the consumers.

As I said in the beginning, I do not intend to make a speech but only a short statement, and in performance of my promise I bring what I have to say to an end, with renewed expressions of welcome and good will to the Governors.

The Chairman—I believe I state what is in the minds of all when I state that the subject of rural credit, and our action respecting it at Richmond, were undoubtedly the most important things that came before us during the session of the Governors' Conference. Nothing can bring that action of ours to the attention of the country so well and so effectively as the interest President Taft has shown in the same matter. We are grateful to him for his courtesy in inviting us here to take lunch with him, and we are also indebted to him, I am sure, for the interest he has taken in this subject that concerns the welfare of all of our people, particularly those who are upon our farms.

I think I may say that it is in the minds of many of the members of the Conference that there should be some modification of the resolution which was passed at Richmond, increasing the committee to more than five, and, if I am right about that, a motion to that effect would now be in order.

GOVERNOR HAWLEY—I move that the committee be increased to nine, of which the chairman of the committee shall be one.

The motion was seconded by Governor Norris of Montana, and was carried.

The Chairman—Governor Plaisted, who presided at the session where the original motion was passed, is the proper person to name the committee.

GOVERNOR PLAISTED—In accordance with the authority vested in me yesterday at the Governor's Conference, to select a committee, I beg to say that I am now ready to report. Anticipating the action of the Conference at this session today, I appoint, as chairman of this committee, Governor O'Neal of Alabama, and to be associated with him, Governors Mann, of Virginia, Harmon, of Ohio, Hadley, of Missouri, McGovern of Wisconsin, Foss, of Massachusetts, Carey, of Wyoming, Johnson, of California. Do I understand that the motion conveys the intention that I should be a member of the committee?

The Chairman—I so understand it.

GOVERNOR PLAISTED—Then I name myself as another member of the committee by reason of the motion just made.

The Chairman—If President Taft will indulge us just for a moment, we will transact a little more business. I think we can dispose of it in a moment.

The President—Do you want to go into executive session?

The Chairman—Oh, no!

GOVERNOR HADLEY—Were you about to turn to something else?

The Chairman—Yes, sir.

GOVERNOR HADLEY—Well, before we do so, I wish to offer a resolution to the effect that an expression of our appreciation, as the representatives of the people of the several States, be conveyed to President Taft for having brought this subject to the attention of the American people, and to the Governors' Conference, and has thereby made it possible for us to contribute to the advancement of the agricultural welfare of the country and of the prosperity of those who are not engaged in that particular occupation.

The motion was seconded, and carried unanimously.

The Chairman—Possibly the gentlemen present do not desire to take any action in reference to the matter I shall now mention, but since the motion passed at our regular session at Richmond, fixing the place of our next meeting at Colorado Springs, and the time some time during the fall, to be designated by the

Executive Committee, there has been a very general expression of opinion among the members of the Conference that the fixing also of the place of meeting should be left to the Executive Committee, and that the place should be changed from Colorado Springs to Denver. As a member of the Executive Committee, I feel that if there is to be any change, it might better be made by the Conference than by the Committee, and I therefore invite a motion looking to that end.

GOVERNOR SHAFROTH—Governor McGovern has spoken to me of the opinion expressed by some members that the meeting should be held in Denver. When I left Denver to attend this Conference, no request was made upon me to present the name of Denver as the next meeting place. Colorado Springs has been after this Conference of Governors for several years, and they are very anxious that it should be held there, and I propose Colorado Springs as the proper place for the meeting. Of course, I don't want to attempt to be dictatorial as to where this next meeting should be held. If it is the sense of the meeting that it should be left to the Executive Committee, why, I am willing to agree to the motion, but I believe that Colorado Springs would be a most excellent place for the meeting of this Conference.

GOVERNOR GILCHRIST—I understand Colorado Springs has been settled as the place. I want to say that Denver is a mighty hot place in August and September, and I am in favor of letting the place remain as already selected, and of not allowing the Executive Committee to settle it. This Conference has already settled on Colorado Springs.

The Chairman—The Conference has selected Colorado Springs. Some individual members have suggested that it be changed to Denver. As a member of the Executive Committee I feel that if there is to be a change made, it should be made by the Conference.

GOVERNOR SPRY—I wish to ask what is the purpose of changing the place of meeting?

The Chairman—It is said that there are better hotel accommodations at Denver, that the capital is located there, and that the city is larger and there are much better opportunities to transact business.

GOVERNOR SPRY—I think the fact that the capital is at Denver will appeal to the members of the Conference, if I am not mistaken.

GOVERNOR SHAFROTH—There are better hotel accommodations at Colorado Springs. We have as good hotel accommodations there as anywhere, and I see no reason for changing the place of meeting. The hotel is probably five or six hundred feet in length, and has a capacity to accommodate about six hundred or seven hundred people. Colorado Springs is about 1500 feet higher in altitude than Denver. That affects the climate some and makes it a little cooler in August than the climate of Denver.

GOVERNOR TENER—I move you that we accept the invitation extended by the Governor of Colorado, and meet at the place suggested by him—at Colorado Springs.

The Chairman—That does not require any additional action, I understand.

GOVERNOR NORRIS—I suggest, and therefore move to that effect, that the proceedings of today be incorporated as a part of the proceedings of the Governors' Conference and published in the volume devoted to that purpose. I understand that the Conference adjourned yesterday *sine die*, which, as I understand it, in fact was only a recess to meet today with the President, and I, therefore, suggest that the motion which read "*sine die*" yesterday, be changed to read, "Adjourned to meet with the President today in Washington," and that these proceedings here today be incorporated as a part of or continuation of the proceedings of the Conference held in Richmond, and be published.

GOVERNOR O'NEAL—I want to suggest, in addition to that motion, that we also incorporate in our proceedings the very instructive letter of the President.

PRESIDENT TAFT—I should like to amend that letter in certain respects.

The Chairman—The motion then is that the proceedings here today be considered a continuation of those of yesterday, and be recorded in the minutes of the Conference, together with the letter of President Taft concerning the subject of rural credit.

The motion was seconded, and unanimously carried.

The Chairman—There are two ladies here who on account of the shortness of time at Richmond were not given an opportunity to speak. What is the pleasure of the Conference in regard to them?

GOVERNOR HADLEY—I move that the ladies be given an opportunity to be heard now. This motion was seconded.

The Chairman—It has been moved that the ladies present, Dr. Johnson and Miss Noa, who were at the Conference at Richmond but did not speak on account of the shortness of the time, be now given an opportunity, if they desire, to present their views upon the subject of rural credit. The motion was put and carried.

DR. JOHNSON—Your Excellency, the President, Your Excellencies, the Governors of the Commonwealths of our Nation:

It seems peculiarly fitting that you, who are a great corporation, an interstate committee, should consider this question of cooperation among the people of the United States, and my friend and I am here, as representatives of the General Federation of Woman's Clubs, and also of the Southern Commercial Clubs, which are deeply interested in this subject. Your considerations at Richmond are studies which have made all of us feel that agriculture is the sick man of the nation, that it is a patient, and that it needs today a careful diagnosis of the doctors of the nation.

The Rural Country Life Commission has examined conditions in the United States, and has made its report. Now the question comes, where are we to seek for further advice and help if we are to really study this question of agricultural cooperation in a truly scientific way? You know probably—perhaps even better than I do—of that great institution, the International Institute of Agriculture at Rome. It seems to me that it is to that we should now look when we are taking up the discussion of the question of what should be done in our own country with regard to agriculture. Europe has succeeded in scientific agriculture far beyond the United States. It has also succeeded in scientific financing far beyond the United States, and it seems that we today should look to Europe if we are to find a true scientific explanation of the question before us. We should look with pride to the fact that the institution I have referred to has been



formed by an American, David Lubin, of California, who out of his own experience here realized that the agricultural question could only be settled by cooperation among all the nations of the world. Having formed that institute, and having seen what Europe had accomplished, he began pleading with the people of the United States to realize what Europe was doing, and to accept their methods in order that we might make the progress that they had made. At least such a message reached the United States through the Southern Commercial Congress. This Congress sent for Mr. Lubin last spring and he was with them for one week discussing this question. It is a matter of keen regret that our Governor, the Governor of Tennessee, has not been in your midst. When I return to Tennessee I intend to begin such a campaign there among the people that they will compel him to attend the next meeting in Colorado. There is no more important meeting in the United States today. You are an organization that can do this work as no other body of men in this nation can do it. And now I plead with you to take up this idea of an interstate commission, and see to it that each State is represented on the commission. It is said that \$2,400 is a great deal of money to expend to send two men over to Europe for three months, but think of the millions that our farmers are paying out in interest, and if by the payment of \$2,400 from each one of our States we can form a good working plan, by which we can save the farmers those millions, the \$2,400 is a mere picayune. Then someone has said, "Why the idea of Mr. Lubin thinking we can get forty-eight States of the United States to come together in one plan and each one send a representative." What has David Lubin done? He has gotten fifty nations of the world, speaking different languages, to come together at Rome and work upon problems of agriculture. If he can do that, if he can bring Russia and England and Japan and all the Islands in the Sea and all their colonies together there at Rome, create a great laboratory to study agriculture, can we, the people of the United States, whose interests are the same after all, whether we are of the North, or the South, or the East or the West, not secure at least one representative from the smaller States and two from the larger States and send them abroad to study this question? I only wish we might have

two from each State. Surely we can do that, and surely we appreciate what men of this kind will be able to do. I have just come back from the Agricultural Institute at Rome. I saw Mr. Lubin and I know something of his work. When I went there and saw that beautiful palace on the hill, and realized that the King of Italy was giving \$60,000 a year out of his own purse to support it, I saw how vital this problem was, and when I kept thinking over what our last census said about our condition in agriculture, I came back here again just to help this commission, just to see if we could not possibly send a commission truly representative of every State in the United States, so that when the roll is called on the evening of the 26th of April, on the Saxonia, the steamer which it is to sail on, every State might respond, and I hope with two delegates. They will come back filled not only with knowledge but with the actual experience of contact with the men who have accomplished these things in Europe. That then there may be organized in the United States a central committee, or committees in each State, so that in less than ten years we may do what they have done in Europe. So I make my plea with you that you will go back to your homes and see that two men are selected, to be sent on this commission, and if Miss Noa and I can be of any service to you in your States by helping you to secure the funds that are necessary, or in helping you to carry out a campaign of education, we are at your service, representing as we do the General Federation of Woman's Clubs and the Southern Commercial Congress. We wish that commission to be truly interstate, truly national.

GOVERNOR HADLEY—In consideration of this question of rural credits and the general problem of the improvement of rural conditions, I think we would not complete our opportunities for information upon this subject if we permitted this Conference to adjourn without having a few words from that man who has so long and so ably directed the activities of the national government in the improvement of agricultural conditions throughout the nation. Secretary Wilson has been with us at luncheon and is here in the room, and I move you, Mr. Chairman, that he be asked to address the Conference.

The motion was seconded and carried.

SECRETARY WILSON—I did not expect to be called on to say anything. I have just sent to each Governor a copy of the annual report of the Agricultural Department which was issued this morning. We have gone to the farmers themselves and found basic information. You will find some information in that report which will be of value.

In the prairie States west of the Mississippi River the question of farm credits has not impressed them as much as it may have impressed people of other localities. An immense amount of wealth is created out there. The farmers own banks themselves, and when they can not invest it in any other way they go up to Canada and buy lands up there to get rid of their surplus money. The owners of land in the Mississippi Valley are not to a very great extent interested in credits, but there is a growing disposition to rent lands out there, and the people who rent need money and need cheaper money. One of the sources of deterioration of our lands in all sections of the country is the renting of the lands. The farmer gets tired after a while and his wife gets tired, and they go to town and rent the farm. They are not wanted in town. He generally votes against water and gas and electricity and things of that kind, and the neighbors do not like it. They do go to town, however, and they are doing it everywhere, north, south, east and west. When the farmer leaves the farm he sells everything. When he rents it the renter is usually a man who can not own a farm, and so he grows crops and sells them. He has no good domestic animals to consume the crops and the farm begins to go down. That is what has happened all over the United States. If there could be a method of loaning money to renters so that they could put domestic animals on the farm to consume everything on the farm, why the fertility could be better maintained.

We have had something to do in the Southern States in the last few years, and the very last reports coming to me were the most interesting I have had because they have reached the point that they must have domestic animals to eat the grass. They are growing corn now. The South grows something like one-third of all the corn that is grown in the United States.

Congress has provided money to conduct farm demonstrations in every State of the North. That means that we must have agents to help the people in the North, and we must have agen-

cies in every county and they are on the government pay-roll. Our mission is to teach the localities the best methods of farming. The federal government should not have to do this work and eventually the States will do it themselves. One of the most important things is the rejuvenation of the soils. They have been mismanaged and are never renewed. They become less productive each year and lose organic matter. They dry up in summer and plants do not grow. The farmers must be taught to rejuvenate those soils and to put them in such a condition as they were naturally. Now if those farmers can have money to buy cattle, horses, sheep and hogs at the very lowest possible rate, I can see the very great benefit coming from farm credits. Out West the farmer who wants to mortgage his land can get money at six per cent, sometimes five, but it runs between five and six per cent. If he can loan money at a cheaper rate I can see the benefit that would be derived from such an arrangement. The South will have surplus money because they are growing more crops than they ever grew before. We have cleared off 164,000 square miles of the cattle tick. That means only a few years until the Southern States are sending beef to Chicago. You go out West and you go up North and you will find that the grass is not growing there as it is in the Southern States. The South is coming to the front fast and at this time no part of our country is as prosperous as the Southern States.

The Chairman—In the course of her very interesting talk, Dr. Johnson referred to the Southern Commercial Congress. A representative of that organization who has been interested so long and so actively in this matter is here, and I will take it for granted that the Conference will be willing to hear from him—United States Senator Fletcher.

SENATOR FLETCHER—Mr. President and Gentlemen: I realize that you are somewhat impatient to reach the final conclusion of your Conference, and I will not detain you long. I thank the chairman for this opportunity to say a word on what I conceive to be one of the most important questions before the American people today, and to say a further word in addition to what Dr. Johnson has said regarding the activities of the Southern Commercial Congress in this cause. I am very glad indeed that she has already covered most of the ground, and I will endeavor not to repeat what has already been covered.

She calls attention to the interest of Mr. David Lubin in this question, and to the fact that he was here last April attending the session of the Southern Commercial Congress in Nashville, Tennessee. Governor Harmon was with us on that occasion and perhaps remembers Mr. Lubin's splendid address. We read last January a good deal about what was going on in Europe in some of the publications of the International Institute of Agriculture, and we invited Mr. Lubin to come over and attend the national convention which was to be held in Nashville, and address that convention. He replied: "I am not willing to come from Rome to Nashville merely for the purpose of making a speech in convention, but my heart is in the great cause, and if you will arrange to assemble representatives from as many States as possible who will give me a hearing on this subject, and who will so acquaint themselves with it that they can take home what we have discussed and consider it and lead movements in their respective States, then if you will get the consent of the State Department, I will come." We undertook to do that. The State Department consented, and Mr. Lubin did come. We were able, although we had but a few months in which to do it, to assemble the representatives of 27 States, and for six days the Congress was in convention studying this question of rural credits as practiced and understood and as in operation in European countries. Following that conference Mr. Lubin addressed our general convention. The resolution adopted by this conference was to the effect that the Southern Commercial Congress should undertake to raise a commission to be composed of two delegates from each State, to visit Europe for the purpose of studying first hand this whole question and seeing exactly what the operations were, how the laws were applied as well as to understand those laws. This resolution was reported to the general convention and adopted by it. We have since been engaged in raising that commission. This idea has been approved by the President, by the State Department, by the International Institute of Agriculture, by various agricultural societies which have been meeting all over this country this summer. On the 16th of August the Senate of the United States unanimously passed a resolution commending the commission and invoking the consideration of diplomatic agencies and foreign powers through whose

countries we might pass in this itinerary. That resolution is a joint resolution which is pending now in the House. It has been reported favorably by the committee and will come to the President for his signature in a short time. Various provinces in Canada have said they want to send delegates and we will probably have them as a part of this commission. More than one-half of the total number contemplated in this commission have promised to go and have made arrangements to go. As Dr. Johnson has said, the commission will leave on the 26th of April by the Cunard line, and returning will leave Queenstown on the 18th of August, and the countries to be visited will be Italy, Austria-Hungary, France, Germany, Switzerland, England, Scotland, Denmark, and the Balkan States if we are permitted to go into that territory. The object of this resolution was to bring into united effort all the States of the Union and to enlist at least two of the leading, capable, thoughtful, diligent men in these different States—enlist their interest so that when they return from this trip they will be able to go into these several States and into the communities of these States and explain the actual workings of the system which they may favor as either conforming to the system in the European countries or some modification of those systems that are in operation in Europe. We have any amount of literature on the subject. We have the report of the Currency Reform Commission; we have reports from the International Institute of Agriculture, and from the State Department, and, it is said, why with all this information is it necessary to send people abroad when we can digest all this information here? There are two reasons for sending these representatives abroad. In the first place it is difficult to translate and to interpret and understand the various documents that you may collect on the subject. In the next place, there is nothing that will take the place of actually witnessing the transactions and observing the operations of the systems in the banks themselves, among the farmers themselves, and becoming thereby fully acquainted with precisely what the operation is in connection with these financial institutions in Europe. We can actually go on the ground and come in contact with the men who are going through the transaction. We will in this way get a very clear understanding of the matter. After all it is a simple practical

way of financing the agriculturists in those countries whereby those farmers can get loans at a rate of interest from two to four per cent, whereas in this country our farmers are paying from eight to ten per cent as a general average. Is it worth while to save our farmers the enormous amount of interest they are paying in this country annually? The Secretary of Agriculture has said that out West the farmers get their loans at from five to six per cent, and he speaks of their using their surplus to buy lands in Canada. I could not help but think of the story of the man who was driving down town. He was president of a savings bank, and wanted to solicit a little business from a workingman. He said, "My good man, I suppose you save money from your earnings from time to time, and I suppose you put that in a savings bank." The man replied, "By the time I pay my rent, and by the time I pay the grocer and the butcher and the baker, why I usually just pack the rest away in barrels. I don't bother about sending it to the savings bank." The farmers of the West may be storing their surplus away in barrels, but down in my part of the country the farmer is paying not five and six per cent on loans that are accorded to him from time to time, but from eight to ten per cent, and even pay a commission in addition to that. But not only that, but the land of the farmer is not ordinarily considered by a banker as a good security for any sort of a loan. Now it is a shame that in this country, when our farms are worth \$40,000,000,000, that the banks of the country will not accept them as security for a credit of \$5,000,000,000, whereas in Germany and under those systems of financing carried on there, according to the German standard, they would be amply credited with \$20,000,000,000 security. This is no experiment that we are about to enter upon. It is no mere theory. These systems have been in operation in European countries for over fifty years. Ever since 1848 the Raiffeisen system has been in successful operation in Germany. They did a business last year of over \$1,000,000,000. The other system, I believe, did over \$3,000,000,000 business in Germany alone, so that we are not entering upon any question of guesswork or experimentation or theorizing. Here are financial systems existing in those countries which are greatly benefitting the agricultural interests of those countries and adding to the prosperity of those countries which we can in

some way adapt to conditions in this country if we thoroughly understand the subject, and that is the object of this Commission which the Southern Commercial Congress is trying to raise.

GOVERNOR HADLEY—Do the Governors appoint that Commission?

SENATOR FLETCHER—The members of the Commission are to be selected by the Southern Commercial Congress, but we have adopted rules, Governor Hadley. We want the endorsement of the agricultural colleges, the Governors, and generally the approval of the farmers of the country, because our whole work will be of no consequence, and your plans that you outlined will not succeed, unless you can get the cooperation and support and sympathy and interest and confidence of the farmers of the country.

GOVERNOR HADLEY—Who provides for the expense of this Commission?

SENATOR FLETCHER—Each delegate must provide his own, and ordinarily we expect the States to pay it. We are relying upon the States. It was Mr. Lubin's idea that the States should provide for the expense of these delegates. Just as sure as it is of consequence that the farmers shall get more for their products than they get today, this matter is of importance. If it is of consequence that the consumers shall pay less than they pay us for the farm products, this matter is of importance. If it is of consequence to loosen the hold of the trusts on the agricultural business of the country, this movement is of consequence. If it is of importance that the farmers of this country shall secure the needed money with which they are to carry on their production, then this matter is of importance. And if it is worth while for our country to profit by the actual experience of fifty years in foreign countries, to the great advantage of our agricultural interests and the general prosperity of our whole country, then this movement is of importance. Mr. Secretary, your report, as I read it in the morning papers, shows that the value of farm products at the farm last year was \$9,500,000,000 in this country. If we consider that one-third of those products are consumed on the farm, that leaves \$6,000,000,000 worth of farm products going to the markets in this country. What do you suppose the consumer is paying for those products? According



to Mr. Yoakum and other authorities on that subject, the consumers are paying \$13,000,000,000 annually for those products. The farmer is not getting the value of his products; the consumer is paying more than he ought to pay. Here are \$7,000,000,000 a year going somewhere between the farmer and the consumer. Sometimes when I make a waterways speech I emphasize that and say a good deal of it goes for transportation, but that is not all. The defective system of marketing in this country has a great deal to do with it, and our Commission is to investigate not only the question of rural finances but also the question of co-operative societies and their operation in those countries, which have to do with the marketing of these products.

GOVERNOR MCGOVERN—Let me give you a striking illustration. Potatoes costing 25 cents a bushel, and costing 5 cents a bushel to ship them in carload lots into Milwaukee, have been selling to consumers in Milwaukee at 85 cents a bushel.

SENATOR FLETCHER—I am obliged to you for that illustration. Unquestionably there must be improvement along that line, and we must not assume that we can not learn anything from Europe. We have much to learn from Europe, and unquestionably we are fifty years behind her in the science of agriculture and in farm operations, and we are certainly fifty years behind Europe when it comes to financial assistance to our farmers. That country which can produce a surplus of those things which the other nations of the earth must have or go hungry is in a position of supreme power. The prosperity of our country depends upon our ability to produce the things which we need, and that nation which produces those things which other nations must have is in a position to dictate in times of peace or war, using only the weapon of trade. I ask you gentlemen that when you go home you will take up this matter of sending these men abroad, who will study and investigate this subject on the ground, right where people are going through with them and have been going through with them for fifty years past, to the great advantage of the people who are concerned. I hope that you will provide for that Commission and that each State will be represented on it, because I believe that when that Commission comes back it will be able to make a good report to you Governors and to the people in your State, and that when a plan which is agreed upon is

put into operation in this country it will lead to a permanent benefit to our agriculture and will promote the prosperity of the whole country.

AMBASSADOR HERRICK—I want to make a suggestion in reference to the statistics that I sent. Some fault has been found with the statistics on the European side. I think those are correct, and I believe the others to be correct. I think I made the statement, \$6,000,000,000 of interest. The fault that was found in relation to that was that the records did not show more than \$3,000,000,000. My idea was that the money that the farmers owe on mortgage security I do not believe to be more than one-half of it. I have taken the estimates made here by Mr. Yoakum. The other relates to the unsecured interest, which I think is larger than the mortgage interest. The other is as to the rate of interest that is charged. I stated it was  $8\frac{1}{2}$  per cent. That was thought to be too high. I do not believe it is too high when you consider the rates that are paid on a negro's bale of cotton.

GOVERNOR NORRIS—I move that the Conference do now adjourn, *sine die*. This motion was seconded and carried.

## ADDENDA

The following paper, contributed by Governor Albert W. Gilchrist, of Florida, was ordered printed in an addenda to the proceedings:

### AN "EXPERIENCE MEETING" FOR THE CONFERENCE.

Governor Albert W. Gilchrist, of Florida.

Mr. Chairman and Gentlemen of the Conference:

I can conceive of no more effective way of producing solid, substantial results from a Conference of Governors than for each Governor to give an account of the more important general acts and measures relating to legislation of the State of which he is Governor.

In the message of each Governor to the Legislature of his State, there is always some "meat." The acts of the Legislature combine the affirmative opinions of the Legislature and the Governor. If twenty-five, thirty or forty Governors were to give the list of the more important general laws of their States, stating the nature of the acts and the year in which they were enacted, you can just imagine the fund of information from which each Governor could draw in preparing his Legislative message. The acts are in the Supreme Court library of most States. On my own initiative, I convened at Tallahassee, the capital, a conference of the eleven circuit judges of the State. I paid their expenses out of the contingent fund. All the judges claimed that in a kind of experience meeting, such as ours might be for at least one day of the Conference, they obtained much information in discussing, among themselves, the various legal points which came before them, and their methods of enforcing the same. They thought so well of the Conference that they unanimously recommended that they be periodically convened. The order calling for the conference recommended changes in the laws of the State, and the drawing up of bills to be submitted to the Legislature relating to such changes. In accordance with

this, they drew up a number of such bills, which will be submitted to the next Legislature. I have heard since I have been here that Frederick the Great similarly convened the judges of his kingdom, with satisfactory results.

The Legislature authorized the appointment of a commission on pleading, practice and procedure. I appointed the Chief Justice and two of the most prominent lawyers in the State. I have just received their report. They have prepared an exhaustive bill on the subject. The first section of the bill reads as follows:

“Section 1. That the provisions hereof are intended to simplify pleading, practice and procedure in the courts of the State, so as to dispense with immaterial forms and technicalities, obviate unnecessary pleadings and procedure and undue delay in maturing causes for trial and to facilitate the trial and final disposition of causes upon the merits, to the end that justice may be administered by the courts without needless delay and expense, as contemplated by the Constitution.”

On my first becoming a member of the legislature in 1893, I raised and have since continued to raise the question that in the bill of rights of each State too much attention is given to that clause providing that no one shall be deprived of life, liberty or property without due process of law, and that due process of law took precedence over another proposition in the bill of rights that right and justice should not be denied or delayed, and that in too many courts due process of law rather than right and justice was treated as the end of all law. In the last few years the American Bar Association has taken strong position relating to the necessity for a change in the administration of justice. The present President and his predecessor recommended changes diminishing the law's delays and rendering justice more certain. The American Bar Association two or three times recommended certain specific laws, one of which was adopted by the High Court of England about 1873: “No judgment shall be set aside or reversed, or new trials granted by any court in any cause, civil or criminal, on the ground of the misdirection of the jury or the improper admission or rejection of evidence or for error as to any matter of pleading or procedure, unless in the

opinion of the court to which application is made, after an examination of the entire cause, it shall appear that the error complained of has resulted in a miscarriage of justice."

To the foregoing, the Legislature of Florida added the following: "This act shall be liberally construed." Wisconsin has such a law; California has done what I wish the State of Florida would do—incorporated the same within its Constitution. All courts have high regard for precedents. My own opinion is that there are, or there have been courts, if they could find out the very day on which Judge Joshua made the sun stand still, that on that particular day they would set back their watches and clocks fully an hour, and about sundown would turn on the electric lights for said hour.

The Legislature of 1911 authorized the appointment of a commission on taxation, said commission to be appointed by the Governor. In Florida, as it probably is in other States, the millage to be collected for State purposes is fixed. The millage for county purposes is not limited. We find that in practically every county in Florida county tax assessors assess the property as low as possible, in order that the property in the county will pay as small amount to the State as possible. By such low assessment they increase the millage to a sufficient rate to meet the expenses of the county. The county principle is high millage and low valuations. It is found, however, that investors are sometimes scared away on account of a high millage, it being hard to convince them that the amount paid in taxes is very small in proportion to the real valuation of the property. This commission has recommended that all money from licenses and from taxes for certain service corporations be paid into the State treasury and that no millage be levied on other property for State purposes. In our State such a change would necessitate an amendment to the Constitution. In my opinion, such a system will sooner or later be adopted in the State.

We lease out our State prisoners, same being leased for \$281.60 per capita per annum. This is the first administration to take from the lease the old, infirm and the women. The sentiment of the State is undoubtedly opposed to leasing the prisoners for an indefinite time. The last Legislature appropriated funds for the purchase of about 17,000 acres for a prison farm. In a short

time it is safe to say that certain of the prisoners will be used in the construction and maintenance of good roads, and that others of them will be placed on this farm. The leasing of prisoners will soon be discontinued.

A hospital for indigent, crippled and deformed children has been provided for, this to be under the supervision of the State board of health. I consider this one of the most important acts recently passed.

The State board of health has been authorized to acquire and maintain a hospital for tuberculosis patients, indigent persons suffering from tuberculosis being treated free, those financially able to pay doing so.

The State board of health has been authorized to adopt and enforce rules and regulations for the betterment and protection of public health.

The State board of health has been given authority to control contagious diseases in live stock. The State board of health has been authorized to maintain a hog cholera serum plant, and to distribute serum to farmers without cost.

The pure food law has been strengthened, and in fact rewritten. A general law has been passed for the more effective maintenance and construction of good roads by counties.

The uniform text book law has been passed.

The Constitution provides for school sub-districts by which the voters of such sub-districts owning property may impose an extra tax of three mills. The Constitutional amendment has just passed authorizing the school sub-districts to bond themselves. In our State more millage is assessed for schools than possibly in any other State in the Union, there being a one mill State school tax, a seven mill county tax and a three mill school sub-district tax. In addition to this, the poll tax of \$1.00 per annum and certain fines go to the schools, besides interest on the school fund. The State school fund is annually increasing, now amounting to about one million and a quarter dollars. The State school board, consisting of the Governor and four of the cabinet, has recently changed the system of lending the money of the State school fund. Heretofore it has been invested in 3 per cent bonds of other States, forming a ready market for their cheap bonds. We

now invest this money in county and city bonds at from about  $4\frac{1}{2}$  to 6 per cent.

Telephone and telegraph companies have been placed under the jurisdiction of the railroad commission.

What might be known as the white slave law has been passed.

Publicity of campaign expenditure is now a law.

The following may be of benefit to some of the Governors: The Legislature of Florida meets the odd numbered years. At the first session in 1909 I took the position that the executive, legislative and judicial departments were all independent of each other. I secured the passage of but few of the measures I recommended.

In 1911, in stating my opinion that the Governor spoke to the Legislature through messages and that he voted "aye" with the Legislature when he approved a measure and that he voted the two-thirds vote of the Legislature "no" when he vetoed a measure, and that, therefore, under the Constitution the Governor was a part of the Legislature, some lawyers showed me a decision of the Supreme Court of Florida along this line. I sent a copy of this decision, in a special message, to both houses of the Legislature. I had already succeeded in getting each house to appoint a committee on the Governor's message. I then went to work and drew up myself, or had drawn up, bills covering the various subjects recommended in my message. These were generally introduced by the chairman of one of their committees. As the business of the session became more or less congested at the end, I daily made a chart of the bills in which I was particularly interested, showing their position on the calendar, and secured some member or members of each house to take up the bills. My own opinion is that if a Governor sits down in his office and acts on the principle that he has absolutely nothing to do with the passage of laws by the Legislature, that blessed few of the bills in which he is particularly interested will be passed. In fact, the act previously mentioned, providing that "no judgment shall be set aside or reversed," etc., was indefinitely postponed in the House on its second reading. A similar measure, however, had passed the Senate as a Senate bill, and was then on the House calendar. By asking one of the members of the House, particularly favoring the bill, to call for a yea and nay vote on the in-

definite postponement of the House Bill, I was enabled to locate those opposed to the same. In a week or ten days thereafter I asked the gentleman to have called up the Senate bill on the same subject, telling him that although he knew it would require only a majority vote to pass it in the House, yet I was satisfied that although the corresponding House bill had been indefinitely postponed it would pass by a two-thirds vote and one to spare. It passed with a vote of 39 to 19, several members being absent.

In 1909, in my message to the Legislature, I recommended that the anniversary of the birthday of Abraham Lincoln be made a legal holiday. The recommendation embodied the following sentence: "The three greatest men this nation has produced are George Washington, Robert E. Lee and Abraham Lincoln." In my failing to say among the greatest men this nation has produced, etc., gave many men an opportunity to write articles and to make speeches relating to the greatness of their particular hero. That sentence, therefore, caused talk loud and long. In my message to the Legislature of 1911, recommending the said legal holiday, the recommendation was fortunately differently worded. There were probably one, two or three per cent of the press who may have spoken disparagingly of the recommendation. In Florida and the South generally, the people are generally broad and liberal minded. I sincerely hope the time will soon come when the Legislature of every State in the Union will pass such an act.



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